UNITED STATES DEPARTMENT OF THE INTERIOR

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

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PUBLIC HEARING

PORTER TUNNEL MINE (DISASTER)
TOWER CITY, SCHUYLKILL COUNTY,
PENNSYLVANIA

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American Legion Hall
South Tenth Street
Tower City, Pennsylvania

Wednesday, June 8, 1977

Met, pursuant to adjournment, at 9:05 a.m.

BEFORE:

JOSEPH O. COOK, Co-Chairman
Deputy Assistant Administrator, Coal Mine Health and Safety, Mining Enforcement and Safety Administration

WALTER J. VICINELLY, Co-Chairman
Commissioner, Office of Deep Mine Safety, Pennsylvania Department of Environmental Resources

PANEL MEMBERS:

JACK E. TISDALE
District Manager, Coal Mine Health and Safety, District 3, Morgantown, West Virginia

JAMES J. SHOBER, JR.
Anthracite Deep Mine Safety Director, Office of Deep Mine Safety, Pennsylvania Department of Environmental Resources, Pottsville, Pennsylvania

ROBERT J. PHARES
Trial Attorney, Office of the Solicitor, United States Department of the Interior

DENNIS STRAIN
Assistant Attorney General, Pennsylvania Department of Environmental Resources, Bureau of Legal Services

APPEARANCES:

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ALSO PRESENT:

EDWARD GREEN, Esquire
Special Assistant to the Administrator of MESA

JUSTINE WASICEK, Assistant Attorney General
Pennsylvania Department of Environmental Resources, Bureau of Legal Services

JOHN SHUTACK, District Manager, Coal Mine Health and Safety, District 1

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P R O C E E D I N G S

MR. COOK: Good morning. This hearing will now come to order.

This morning, we are evaluating the necessity of calling all of the scheduled second shift hourly employees as witnesses. There is a good possibility that it won't be necessary to call all of them.

We are, however, going to try to follow as best we can the schedule that was outlined yesterday, following our determination with the second shift hourly employees.

What we would like to do this morning is, while we are making those determinations of calling the second shift hourly employees, we would like to start talking to the persons who have knowledge of the abandoned mines in the vicinity of the West Skidmore section of the Porter Tunnel Mine.

Would any of the panel members have anything to say before we start talking with the witnesses?

(No response.)

MR. COOK: If not, at this time, we would like to call Mr. Marlin Bush.

Whereupon,

MARLIN J. BUSH

having been duly sworn, testified as follows:

MR. PHARES: Would you please state your name for the record and spell it?

WITNESS BUSH: Marlin J. Bush; M-a-r-l-i-n, B-u-s-h.

MR. PHARES: What is your address, Mr. Bush?

WITNESS BUSH: 19 East Grand Avenue, Tower City.

MR. PHARES: Mr. Bush, before we begin the questioning, I want you to understand that this is a formal investigatory hearing.

A written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question. And you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

Mr. Bush, if you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS BUSH: Yes.

MR. PHARES: Thank you.

MR. COOK: Mr. Bush, where are you currently employed?

WITNESS BUSH: Porter Tunnel.

MR. COOK: What is your occupation there?

WITNESS BUSH: Dump the cars.

MR. COOK: You dump the mine cars?

WITNESS BUSH: Yes.

MR. COOK: What we are trying to determine this morning is the knowledge of the abandoned mines in the vicinity of Porter Tunnel Mine, particularly around or surrounding the West Skidmore section.

What knowledge would you have of the so-called old Bush Mine in that area?

WITNESS BUSH: It was my dad's. Occasionally, we went inside with him.

MR. COOK: You were with whom?

WITNESS BUSH: My dad.

MR. COOK: Your father?

WITNESS BUSH: Yes.

MR. COOK: Could you tell us the extent that that area was mined? For example, how deep was the slope and how many levels were turned off, and maybe how far -- as best you recall, how far the levels were driven as far as numbers of chutes; that type of information?

WITNESS BUSH: Well, it was approximately 800 feet; maybe a little more. The bottom level was only -- the slope

and the gangway, and they were trying to make their first air connection. That wasn't completed.

MR. COOK: For example, as you come down the slope, about how far down the slope would the first level have been turned off?

WITNESS BUSH: I don't remember that; not exactly.

MR. COOK: Not exactly.

Would the first level have cut into what is called the old Miller Mine?

WITNESS BUSH: They did hole together.

MR. COOK: They holed together?

WITNESS BUSH: Yes, sir.

MR. COOK: Did they hole into the old Miller Mine to the left?

WITNESS BUSH: I don't know exactly. But from what I can remember, they were all holed together for the air connection.

MR. COOK: Yes.

In that particular area, which way would the water -- would it have run towards the Miller Mine or towards the Weaver Mine out of Bush Mine; do you have any idea?

WITNESS BUSH: What was that?

MR. COOK: Which way would the water -- let's say, you cut into the Miller Mine; would the water have run off in that direction? Would it have drained to the Miller Mine out

of Bush Mine?

WITNESS BUSH: From the Bush Mine?

MR. COOK: Yes, sir.

WITNESS BUSH: Each gangway had their own pitches drain towards their own slope.

MR. COOK: Towards your own slope, yes.

WITNESS BUSH: It was gravity water, that it would flow right to their own slope and their own pumps.

MR. COOK: For each gangway, was this on a positive grade, where the water would come back to the slope?

WITNESS BUSH: Yes, sir.

MR. COOK: Do you know if the second slope would have been cut into the mines on either side -- of the second level; excuse me?

WITNESS BUSH: As far as I know, down to -- it would be the third level -- the level above where they finished, they were holing to Weavers; that I am sure of. But if they were holing to Millers, that I don't know.

MR. COOK: About what age were you when you worked in the mines with your father?

WITNESS BUSH: Approximately 14 or 15.

MR. COOK: I see.

Do you remember anything that your father might have said that would have any bearing upon the location of this mine or the conditions of the mine?

WITNESS BUSH: What do you mean by that?

MR. COOK: Were there unusual water conditions, gas conditions, roof conditions that were unusual?

WITNESS BUSH: Not really. The only condition, they didn't have air connection. That I remember.

MR. COOK: Do you know when the mine was first opened?

WITNESS BUSH: Approximately '39 or '40; in that neighborhood.

MR. COOK: When did the mine leave the Bush Family; do you know?

WITNESS BUSH: Oh, the early part of '43; I would say the spring of '43.

MR. COOK: Do you have any knowledge of who the coal was being sold to when your father was running the mine?

WITNESS BUSH: I know some of it went down to Williamstown Breaker.

MR. COOK: Who operated the Williamstown Breaker; do you remember?

WITNESS BUSH: I think it was Susquehanna Company; I am not sure. I think.

They had different breakers. But offhand, I couldn't state which one we sold to.

MR. COOK: Was the mine sold in 1943?

WITNESS BUSH: My recollection is that it was.

MR. COOK: Yes, sir.

As you recall, who was it sold to?

WITNESS BUSH: Johnny Deiter was one, and George Reichert, and I think it was a Smeltz; his exact name I wouldn't know.

MR. COOK: That it was sold to in '43?

WITNESS BUSH: Yes.

MR. COOK: Do you have any knowledge of the mine being worked after 1943, after it was sold to the new owners?

WITNESS BUSH: They took some slope pillars out, but how many I can't tell. I don't think there was too much of a slope pillar taken out, because the water come up too fast to take much of the pillars out.

To the extent of what they took out, I can't tell you.

MR. COOK: You said the slope was down around 800 feet. Were you down in the vicinity of the bottom of the slope?

WITNESS BUSH: No. The level above was the last one I was in.

MR. COOK: Sir?

WITNESS BUSH: The level above that was the last one I was in.

MR. COOK: The level above the bottom of the slope?

WITNESS BUSH: Yes.

MR. COOK: About how far would it have been to the bottom of the slope from the last level? Would you remember that?

WITNESS BUSH: Approximately 250 feet.

MR. COOK: In other words, from the level that you were in, approximately 200-and-some more feet down, was that a point where they intended to turn another level?

WITNESS BUSH: They had started another level down.

MR. COOK: They had started another level.

Would you have any knowledge of how far that bottom level was eventually driven?

WITNESS BUSH: Offhand, I would say no more than about 150 feet at the most, if it was drove that far.

MR. COOK: If it was drove that far.

WITNESS BUSH: They were working mainly on getting their air connection.

MR. COOK: Yes.

WITNESS BUSH: As you recall, were they mining the full seam, or was there any reason to only mine a portion of the seam for ecomonic conditions?

WITNESS BUSH: As far as I knew, they were mining the full seam.

MR. COOK: The full seam.

Was the mine making an unusual amount of water?

WITNESS BUSH: Not to my recollection, no.

MR. COOK: Generally speaking, there is a sump always next to the bottom of the slope for the water to go into at those points and picked up and a series of pumps to the surface.

WITNESS BUSH: Would you state that again?

MR. COOK: Well, would there have been a sump at the bottom of this slope, a water sump?

WITNESS BUSH: At the bottom?

MR. COOK: Yes, at the bottom of the slope that had been used for a sump?

WITNESS BUSH: As far as I know, they used the bottom of the slope for a sump, yes, sir.

MR. COOK: I might come back in just a moment, Mr. Bush. But for the moment, those are all of the questions I have.

MR. VICINELLY: You stated you were 11 years of age when you went down into the mines and worked. How much time did you spend in the coal mine?

WITNESS BUSH: Just an occasional day. It was no straight time or anything.

MR. VICINELLY: Well, the total time would be a month? Six months? Eight months?

WITNESS BUSH: I would say a month at the most, spread out over the times; like during Christmas vacation or something, we were allowed to go in there; or during the

summer once in awhile. Not day after day or anything of that sort.

MR. VICINELLY: As I understand you, the total time the mine was in operation, you worked possibly one month?

WITNESS BUSH: That is right.

MR. VICINELLY: Are there any records available pertaining to the Bush Mine?

WITNESS BUSH: Not as far as I know.

MR. VICINELLY: Do you recall how many people were working that mine when it was in full operation?

WITNESS BUSH: Offhand, no.

MR. VICINELLY: The information that you have given us, is that from what you recall your father or your dad telling you, or is this as a result of being underground?

WITNESS BUSH: It is mostly recalling what we did and what my dad told me.

MR. VICINELLY: Have you ever been approached by the Kocher Coal Company about information regarding the extent of the mining of the Bush Mine?

WITNESS BUSH: Occasionally, yes. Sam and I would look at the maps and try to figure out approximately -- we didn't know exactly where it was or how close they were to it or not; just approximately where it was, nothing exact.

MR. VICINELLY: What you are saying is that the slope was down 800 feet, but you are not exactly sure of that?

WITNESS BUSH: Not exactly sure, no.

MR. VICINELLY: Could it have been down 500 feet?

WITNESS BUSH: It was definitely more than 500 feet. It was in the neighborhood of 800.

MR. VICINELLY: In the neighborhood of 800.

When you discussed the extent of mining in the Bush Mine with Sam, what information did you give him?

WITNESS BUSH: Just what I am giving you now, the same: what I recall, the amount of mining that was done on the last level, and things of that sort.

MR. VICINELLY: Those are all of the questions I have, Joe.

MR. COOK: Mr. Shober?

MR. SHOBER: Mr. Bush, do you recall just about what the pitch of the slope was?

WITNESS BUSH: They told me it was 45 degrees pitch, approximately.

MR. SHOBER: All right. Thank you.

Now, Mr. Bush, this lower level that was advanced east towards Porter Tunnel, what did you say that distance was that you estimated that it was advanced?

WITNESS BUSH: I estimated it at 150 feet.

MR. SHOBER: 150 feet.

Can you remember, offhand, if there were any chutes driven off that lower level?

WITNESS BUSH: They were trying to get their air connection from that level, yes.

MR. SHOBER: This one chute?

WITNESS BUSH: Yes.

MR. SHOBER: I have no more questions.

MR. COOK: Mr. Tisdale?

MR. TISDALE: Mr. Bush, what was your father's name?

WITNESS BUSH: Clayton.

MR. TISDALE: Clayton.

When you discussed the old mine with Sam Klinger, did you say that you discussed the fact that there was a level driven at the bottom?

WITNESS BUSH: What do you mean by that? A gangway?

MR. TISDALE: A gangway?

WITNESS BUSH: Yes, sir.

MR. TISDALE: And that there were probably at least two other levels driven off the slope?

WITNESS BUSH: That would be above that.

MR. TISDALE: Above the bottom?

WITNESS BUSH: Yes.

MR. TISDALE: Did you ever see a surveyor or anybody do any measurements in the mine to make a map of it, or are you aware of any map of the mine?

(Witness Bush shaking head.)

MR. TISDALE: Do you have any idea of the production

per day or per month?

WITNESS BUSH: They were averaging when the gangways and things were going -- this was after the air connections and things were completed -- they were averaging approximately 14, 15, up to 18 loads a day.

That was U-tag trucks.

MR. TISDALE: What type of trucks?

WITNESS BUSH: U-tag, four or five ton.

MR. TISDALE: Four or five ton?

WITNESS BUSH: Yes, sir.

MR. TISDALE: Do you know whether there were any royalties paid on the coal?

WITNESS BUSH: No, I don't know that. I don't remember anything being said about royalties.

MR. TISDALE: Do you know who owned the coal?

WITNESS BUSH: What was that?

MR. TISDALE: Who owned the coal?

WITNESS BUSH: No, I don't know that.

MR. TISDALE: Do you know if any of the people that worked in that mine are still living?

WITNESS BUSH: What do you mean by that?

MR. TISDALE: Any of the employees, any of the men that worked there every day.

WITNESS BUSH: Do you mean on the lower level or anywhere?

MR. TISDALE: Anywhere in the mine?

WITNESS BUSH: Earl Bush worked and Paul Bush worked some. They are the only two living ones that I know of.

MR. TISDALE: Do you know if the management of Porter Tunnel Mine asked anyone else about the extent of the old mine?

WITNESS BUSH: I don't know.

MR. TISDALE: I don't have any more questions.

MR. COOK: Mr. Strain?

MR. STRAIN: Mr. Bush, do you remember how far on the 550 foot level in either direction the mine went?

WITNESS BUSH: Most of your levels only had 150 feet either way of the slope. That was the above levels.

Now, I am not sure about the next-to-the-last level going west. That I am not sure of.

Going east, they still only had 150 feet from the slope.

MR. STRAIN: All right. If you were going east, would that be towards the Porter Tunnel?

WITNESS BUSH: Yes.

MR. STRAIN: So, towards the east, you are certain of about 150 feet?

WITNESS BUSH: In the level above the bottom.

MR. STRAIN: The level above the bottom?

WITNESS BUSH: Yes.

MR. STRAIN: Was there any other mine between your mine and the Porter Tunnel?

WITNESS BUSH: Weaver was between there -- you mean the main tunnel itself?

MR. STRAIN: Yes, the main tunnel.

WITNESS BUSH: Weaver was between them.

MR. STRAIN: All right. Do you know how far down Weaver went?

WITNESS BUSH: They were approximately a level above my dad's.

MR. STRAIN: The level above your father's; 550 feet, approximately?

WITNESS BUSH: I would say close to that, yes; in that neighborhood.

MR. STRAIN: They didn't go down to 800 feet?

WITNESS BUSH: No.

MR. STRAIN: How did you get the figure of 800 feet?

WITNESS BUSH: Well, they went through a 90-foot rough fault; and they say, after they got through the fault, approximately 140 to 150 feet for a lift; besides what they had above their fault to their last gangway would be approximately 250 feet.

MR. STRAIN: Were there any maps made of your mine?

WITNESS BUSH: Not that I know of.

MR. STRAIN: Were any maps made of the Weaver Mine

that you know of?

WITNESS BUSH: Not that I know of.

MR. STRAIN: How about the Miller Mine?

WITNESS BUSH: I don't know.

MR. STRAIN: When you were consulting with -- I believe you said you talked with Sam. Who would that be?

WITNESS BUSH: That is the foreman at Porter Tunnel.

MR. STRAIN: Sam --

WITNESS BUSH: Sam Klinger.

MR. STRAIN: When you talked with Sam, what maps did you refer to?

WITNESS BUSH: Well, they had maps in there that dated back to 1940--I think the date was on it. And that was only at the above workings, nothing down there where they are at.

MR. STRAIN: Did you yourself ever talk with either Earl or Paul about the old workings?

WITNESS BUSH: Occasionally, yes.

MR. STRAIN: Did you do it after you talked with Sam or before you talked with Sam?

WITNESS BUSH: No, this was before.

MR. STRAIN: Did anyone at the company ever ask if you knew if there was anyone who worked that mine?

WITNESS BUSH: I told them there was no one living that was down in the last level. There is no one living that

worked in the lower level at all, not to my recollection.

MR. STRAIN: Now, how far to the east and west did the lower level go?

WITNESS BUSH: I would say approximately 150 feet. They were mainly concerned with getting their air connection.

MR. STRAIN: So, the lower level went as far as any of the upper levels; is that correct?

WITNESS BUSH: I would say yes.

MR. STRAIN: When you talked to Sam, the first time you talked to Sam, was that before of after they started working the West Skidmore section?

WITNESS BUSH: Offhand, I couldn't state that. Most likely, it was after they started going west, because he was concerned about the water, and he wanted all the information he could get concerning it.

MR. STRAIN: How long have you worked for the Porter Tunnel Mine?

WITNESS BUSH: Oh, it will be four years in August.

MR. STRAIN: All right. Did you talk to Sam -- was it very soon after you started working that you told him about this, or was it sometime afterwards?

WITNESS BUSH: It was sometime after I started working there.

MR. STRAIN: So, it could have been maybe a year after you started to work there?

WITNESS BUSH: A year or longer than that, because they hadn't started that gangway yet.

MR. STRAIN: All right. Those are all of the questions I have.

MR. COOK: Mr. Phares?

MR. PHARES: Mr. Bush, I believe you told us that the operation was transferred to three individuals. I believe I got two of the names.

George Reichert --

WITNESS BUSH: Right.

MR. PHARES: -- Mr. Smeltz?

WITNESS BUSH: Yes.

MR. PHARES: Who is the third name?

WITNESS BUSH: John Deiter.

MR. PHARES: Do you know how to spell that?

WITNESS BUSH: I think it is D-e-i-t-e-r.

MR. PHARES: And you gave us the name of one of the breakers that the coal was sold to. Were there any other breakers that the coal was sold to; do you remember?

WITNESS BUSH: I don't know where they sold their coal when they took over.

MR. PHARES: Did Mr. Leon Kocher operate the breaker at that time that you know?

WITNESS BUSH: What was that?

MR. PHARES: Was Mr. Leon Kocher operating a breaker

during the time that the old Bush Mine was in operation?

WITNESS BUSH: Yes.

MR. PHARES: Do you know if any coal from the old Bush Mine was sold to Mr. Kocher's breaker?

WITNESS BUSH: I remember the name being mentioned, so I imagine they did sell some to Kocher's breaker.

MR. PHARES: Do you know whether Mr. Leon Kocher was involved in any way with the transfer of the Bush operation to these three gentlemen you have just mentioned?

WITNESS BUSH: I have heard it mentioned, but I couldn't prove anything of that sort.

MR. PHARES: You have no firsthand knowledge?

WITNESS BUSH: No.

MR. PHARES: Mr. Bush, have any state or federal inspectors ever approached you and asked you any questions about the old Bush Mine prior to the accident on March 1st?

WITNESS BUSH: Clarence Miller and I discussed it occasionally; not to no extent, but we did discuss it.

MR. PHARES: How long ago was that; do you remember?

WITNESS BUSH: Offhand, no.

MR. PHARES: Do you remember if Mr. Miller took any notes of this conversation?

WITNESS BUSH: That I don't know.

MR. PHARES: I have no further questions.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: At the Bush Mine, how many openings did you have leading into it?

WITNESS BUSH: What do you mean by that? Just the slope?

MR. VICINELLY: Yes.

WITNESS BUSH: As far as I know, it was just the slope.

MR. VICINELLY: There was only one slope going down into it? The map that I am looking at shows one slope going to the east; and to the west of it, a partial slope down. I think it would show -- it shows on the other map.

Was that just a sump heading, or could that have been another slope?

Do you want to put that map up?

(Mr. Rogers complying.)

MR. VICINELLY: What we are looking at is Exhibit 3.

MR. COOK: Could you point out the slope we are talking about?

(Mr. Rogers complying.)

MR. VICINELLY: That is the slope that you were talking about, Mr. Bush, that possibly or did go down 800 feet; is that correct? Or do you know?

WITNESS BUSH: That top line on that map, the peaked line, what does that represent?

MR. ROGERS: This, sir?

(Mr. Rogers indicating.)

WITNESS BUSH: No, the top line.

MR. ROGERS: This?

(Mr. Rogers indicating.)

WITNESS BUSH: Is that the opening of the slope, right where he has his finger?

MR. VICINELLY: Yes.

If you want to walk over to the map, you can.

WITNESS BUSH: From what I can see here -- I don't remember two slopes being drove anywhere inside. There was a slight curve in it; but how far that went, I don't know. But there was no two slopes in there.

MR. VICINELLY: All right. To the west of the one slope, you have another slope going down for a short distance below the first level --

WITNESS BUSH: Over on this side?

(Witness Bush indicating.)

MR. VICINELLY: Yes.

WITNESS BUSH: I don't know what that represents. I don't remember anything of that sort.

MR. VICINELLY: Do you know by looking at the map -- could you tell which slope you are referring to us? Would it be the first one or the second one?

Would you identify that on the map?

What you are telling us is that the slope went down

800 feet.

WITNESS BUSH: Yes.

MR. VICINELLY: Could you by looking at the map tell us which one you referred to that went down 800 feet?

WITNESS BUSH: No, I couldn't.

MR. VICINELLY: Is it a possibility that the slope that he is pointing at now --

(Mr. Rogers indicating.)

MR. VICINELLY: -- is it possibly the one that you are referring to; could that have been down 800 feet?

WITNESS BUSH: It is possible, yes.

MR. VICINELLY: So, it could be either one?

WITNESS BUSH: It could be either one that you have got pictured there.

MR. VICINELLY: Are you familiar with that map? Have you ever seen that map before?

WITNESS BUSH: Not pictured exactly like that, no.

MR. VICINELLY: All right. Those are all of the questions I have.

MR. COOK: I have one question, Mr. Bush.

On the lower level, the lowermost level of the old Bush Mine, on the east side of the Bush slope, do you have any knowledge of how many breasts might have been turned off of that level?

WITNESS BUSH: From what I remember, it was only the

one.

MR. COOK: Just that one?

WITNESS BUSH: That was supposed to be an air connection.

MR. COOK: Generally speaking, that would have been about what distance from the slope?

WITNESS BUSH: I would say approximately 50 feet; maybe a little more.

MR. COOK: So, drive around 50 feet and then drive it up and make their air connection?

WITNESS BUSH: They would have made sure they had enough of a slope --

MR. COOK: Yes.

WITNESS BUSH: I would say it was 50 feet; maybe a little more than that.

MR. COOK: Then, in discussing what work might have been done after the mine was sold, that could have been on, say, a pillar that was pulled. Is that what you were referring to, the slope pillar?

WITNESS BUSH: You mean on the lower level?

MR. COOK: Yes.

WITNESS BUSH: I don't think there was much of anything taken off the lower level, because there was no pumps.

MR. COOK: You think it might have been further?

WITNESS BUSH: I think it might have been further

before they started taking the slope pillar. That is on that lower level.

MR. COOK: Thank you very much, Mr. Bush.

Are there any more questions?

MR. STRAIN: Mr. Bush, we have been asked, properly so, to identify the areas on the exhibit that you were talking about.

Could you go over to Exhibit 3 and see if you can find any markings on the slope that you were talking about?

WITNESS BUSH: Any markings?

MR. STRAIN: Yes, name or designation on the slopes that might identify them.

WITNESS BUSH: I don't see anything over here at Weavers. That is the one east of them.

MR. STRAIN: Is that one the closest slope to the abandoned workings east of the Porter Tunnel? Is that the Weaver Mine?

WITNESS BUSH: Yes.

MR. STRAIN: All right. Continuing east, which would be the next one?

WITNESS BUSH: That would probably be my dad's. There is no names on there that I can see.

There is something scribbled here, but I can't make out what it is.

MR. STRAIN: So, it is the second slope west of the

Porter Tunnel?

MR. ROGERS: That is Porter's.

WITNESS BUSH: He said that is Porter's, but it is not too clear, this one here.

(Witness Bush indicating.)

MR. STRAIN: All right. Fine.

MR. COOK: We have two or three questions, please, Mr. Bush.

Would you recall what angle the breasts or chutes were driven on? Were they straight up or were they to an angle or at a slant?

WITNESS BUSH: They were straight up.

MR. COOK: Straight up?

WITNESS BUSH: Yes, sir.

MR. COOK: Did you visit the mine after it was sold in 1943? Did you go underground anymore?

WITNESS BUSH: No.

MR. COOK: After that time?

WITNESS BUSH: No.

MR. COOK: Are there any more questions?

(No response.)

MR. COOK: Thank you, Mr. Bush.

MR. VICINELLY: Thank you, Mr. Bush.

(Witness excused.)

MR. COOK: At this time, we would like to have Mr.

Earl Bush, please.

MR. SAVIT: We had one other question you didn't ask, and I would like to get that in the record, if possible.

MR. COOK: All right. Would you come forward, please, Mr. Savit?

(Counsel Savit approaches bench.)

MR. COOK: Excuse me, Mr. Bush. We would like to recall Marlin if we could to clear up two questions.

You are still under oath, Mr. Bush.

Whereupon,

MARLIN J. BUSH

having previously been duly sworn, testified further as follows:

MR. COOK: We have two areas in which questions weren't asked, to clarify a situation.

Did you ever go back to the Bush Mine, either on the surface or underground, to visit --

WITNESS BUSH: No.

MR. COOK: -- for any purpose after it was sold?

WITNESS BUSH: One time I went back to help fix some rails, but that was on the surface.

MR. COOK: On the surface?

WITNESS BUSH: Yes.

MR. COOK: Would you remember about when that was?

WITNESS BUSH: That was early in the summer of '43,

sometime.

MR. COOK: In the summer of '43.

Who was operating the mine at that time?

WITNESS BUSH: Reichert -- them three men that bought it.

MR. COOK: The three --

WITNESS BUSH: John Deiter and Smeltz.

MR. COOK: I see.

Today, could you locate the old Bush Mine we are talking about on the surface? Could you go to it?

WITNESS BUSH: That is something I couldn't tell you. I don't know how bad it was stripped or how much was stripped or anything of that sort.

I would know approximately where it is. But to go back and locate it on the spot, that I don't say I could do.

MR. COOK: I see.

Thank you very much.

(Witness excused.)

MR. COOK: Mr. Earl Bush, please?

Whereupon,

EARL BUSH

having been duly sworn, testified as follows:

MR. PHARES: Please state your name?

WITNESS BUSH: What?

MR. PHARES: Would you please state your name for the

record?

WITNESS BUSH: Earl Bush.

MR. PHARES: What is your address?

WITNESS BUSH: Tower City, R.D.

MR. PHARES: Mr. Bush, before we begin the questioning, I want you to understand that this is a formal investigatory hearing.

A written transcript is being made of the statements taken.

You have the right to have counsel present when you are testifying. You may consult with counsel before answering any question. And you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS BUSH: Yes.

MR. PHARES: Thank you.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Mr. Bush, did you operate the abandoned mine adjacent, west, of the Skidmore seam?

WITNESS BUSH: Would you repeat that question, please?

MR. VICINELLY: Were you the operator of the abandoned mine west of the Skidmore seam -- or I guess the mine that we are -- I guess there are three of them there.

Did you operate one of the mines west of the Porter Tunnel?

WITNESS BUSH: No.

MR. VICINELLY: Were you an employee of the mine?

WITNESS BUSH: Yes.

MR. VICINELLY: What knowledge do you have of the extent of workings of the mine?

WITNESS BUSH: I don't have any true knowledge of any of it. It is just guesswork.

I gave a drawing of what I knew about it, what I thought it was.

MR. VICINELLY: Well, to get it on the record, could you give us the information that you know of this abandoned mine?

WITNESS BUSH: Will I give it to you?

MR. VICINELLY: Yes.

WITNESS BUSH: It is all wrote down somewhere.

MR. VICINELLY: Well, will you tell us here --

WITNESS BUSH: I can't tell you. I drawed it down. If you want to look at it, okay.

MR. VICINELLY: Do you know how far the slope went down?

WITNESS BUSH: Roughly, 800 feet. I don't know anything. I have an idea it was 800 feet.

MR. VICINELLY: Are there any records?

WITNESS BUSH: No records.

MR. VICINELLY: Any maps?

WITNESS BUSH: No maps.

MR. VICINELLY: Do you have knowledge that they keep maps of it?

WITNESS BUSH: Not that I know of.

MR. VICINELLY: Was there one slope going down or more than one?

WITNESS BUSH: I only worked in one.

MR. VICINELLY: Do you know if any levels were driven up the slope?

(Mr. Rogers changes maps.)

WITNESS BUSH: That answers my question.

MR. VICINELLY: Well, did you draw that map?

WITNESS BUSH: Not that one I didn't draw; one similar to that.

MR. VICINELLY: Well, what is the distance between

the two levels?

WITNESS BUSH: It would be 250 feet, approximately. I am not sure of anything.

MR. VICINELLY: At the lower level, how far was that driven in to the east?

WITNESS BUSH: Well, I didn't work in that lower level. I only worked in the level above. That one I worked in.

But the one down below, I quit at that time when that level was just about in. I quit. That was the last I worked in that mine. I didn't work the lower level at all.

MR. VICINELLY: Do you have any knowledge --

WITNESS BUSH: That is what they told me. I don't know how far them gangways were in.

MR. VICINELLY: You don't know of any breasts being driven out of that gangway?

WITNESS BUSH: I don't know that.

MR. VICINELLY: Did you work the second level?

WITNESS BUSH: I worked awhile in there. I don't remember much about that.

MR. VICINELLY: Do you know if there were any breasts driven off it?

WITNESS BUSH: I think there were. I am not sure of anything.

MR. VICINELLY: On the map -- what exhibit is that?

I guess that is an overlay on Exhibit 3.

Is that correct, John?

MR. SHUTACK: Yes. That is not marked as an exhibit yet. It would have to be identified.

It is an overlay on the portion of Exhibit 3.

MR. STRAIN: Could you read the caption on the overlay, please?

WITNESS BUSH: Would you speak a little louder, please?

MR. STRAIN: Can you read the caption on the overlay?

WITNESS BUSH: I can't read that; I can't see that.

MR. COOK: Pull it closer.

(Mr. Rogers complying.)

WITNESS BUSH: Okay.

(Witness Bush perusing map.)

MR. STRAIN: Could you read it out loud, please?

WITNESS BUSH: Read it out loud?

MR. STRAIN: Yes.

WITNESS BUSH: "Porter Tunnel, Kocher Coal Company, Valley View, Pennsylvania.

"Map of West Skidmore South Dip conveyor gangway section as corrected using the information determined by MESA personnel."

MR. PHARES: Can we mark the overlay as Exhibit

Number 6?

(Whereupon, the document was marked as Panel's Exhibit No. 6 for identification.)

MR. COOK: Yes, Mr. Savit?

MR. SAVIT: Can we just extend our general objection to the exhibits being introduced?

MR. COOK: It is noted for the record.

MR. VICINELLY: Looking at Exhibit 6, from the opening coming down, it shows a slope to the west and a slope to the east.

The east is the one that is the furthest extended.

WITNESS BUSH: Well, the west on that map --

MR. VICINELLY: I mean the west is the furthest.

WITNESS BUSH: Yes.

MR. VICINELLY: Excuse me.

The one to the west, is that the one that you worked in?

WITNESS BUSH: That is the one I worked in.

MR. VICINELLY: Do you have any knowledge of the slope to the east?

WITNESS BUSH: That slope on the east, I have no knowledge of that one.

MR. VICINELLY: Do you know how far down it went?

WITNESS BUSH: I don't think it was that far.

MR. VICINELLY: Do you --

WITNESS BUSH: Down about 200 feet.

MR. VICINELLY: Were there any gangways driven off of it, to your knowledge?

WITNESS BUSH: Well, they were going down across the pitch; and then they drove a gangway west to get in line so they would be more parallel.

Otherwise, they were heading for Weaver's Mine; if they continued on the east slope, they would eventually have run into Weaver's Mine. So, they came back and turned to the west, more or less going parallel with Weaver's. As it was, they were going towards Weaver's.

MR. VICINELLY: Do you know how far that slope -- we will identify that as the "west slope" -- was from the Weaver Mine?

WITNESS BUSH: It wasn't surveyed. I don't know anything. I am just assuming.

MR. VICINELLY: Do you know the distance between the west and east slopes that are shown?

WITNESS BUSH: Do I know the distance between them two slopes?

MR. VICINELLY: Yes, at the first level, second level?

WITNESS BUSH: No, I don't know that.

MR. VICINELLY: All right.

Thank you, Mr. Bush.

Joe?

MR. COOK: When did you say you worked at the mine, Mr. Bush?

WITNESS BUSH: What?

MR. COOK: What year did you work the mine, approximately?

WITNESS BUSH: Around '41, '42.

MR. COOK: About how long did you work there?

WITNESS BUSH: About how long?

MR. COOK: Yes, sir.

WITNESS BUSH: Five months, approximately.

MR. COOK: About five months; somewhere around '41 --

WITNESS BUSH: '42; something like that.

MR. COOK: What type of work did you do in the mine?

WITNESS BUSH: Only as a laborer and helping with the miners.

MR. COOK: Were you working in the gangways or the slants or --

WITNESS BUSH: Gangway.

MR. COOK: Did you work primarily in the gangways?

WITNESS BUSH: Mostly gangway.

MR. COOK: Was the complete seam being mined? Were you leaving any coal for any particular reason?

WITNESS BUSH: Leave any coal for what?

MR. COOK: Were you leaving any coal due to maybe high ash or some market condition? Were you mining the entire seam?

WITNESS BUSH: I don't understand that question.

MR. COOK: In other words, you weren't making any attempt to leave bottom coal or top coal? You were mining all of the seam?

WITNESS BUSH: You take the full seam.

MR. COOK: Was the mine making a good deal of water?

WITNESS BUSH: It depends on what you call "a lot." I don't think it was much, compared to what we are having today.

MR. COOK: Have you had an occasion to go back to the mine on the surface or underground after you left that mine for a visit or any other reason?

WITNESS BUSH: No, I didn't.

MR. COOK: Do you have knowledge of when the operation by the Bush Family was terminated and someone else took it over?

WITNESS BUSH: Do I have knowledge of when it was taken over?

MR. COOK: Yes, sir.

WITNESS BUSH: It was after '42.

MR. COOK: It was after '42.

Do you know who might have purchased the mine at that

time?

WITNESS BUSH: See, it wasn't my mine. I had nothing to do with the sale of the mine.

MR. COOK: You don't know who the coal was being sold to?

WITNESS BUSH: Some of it was taken down to Bear Valley and took it through the tunnel, the Williamstown Tunnel, and took it over to Williamstown Breaker. I know at one time they did that.

MR. COOK: Those are all of the questions I have right at the moment.

Mr. Shober?

MR. SHOBER: Mr. Bush, do you remember if there were any offsets or slant slopes driven off your main slope as the slope was being sunk?

WITNESS BUSH: Were there any slants drove off the slope while it was being sank?

MR. SHOBER: Yes. I am concerned by whether some had sumps.

WITNESS BUSH: No, just them sump holes they put down a sank slope, to the side, a slant going down; that was to catch the water. But you wouldn't have it down the slope.

MR. SHOBER: Mr. Bush, do you remember, offhand, just how far these sumps were driven? Was it 20 feet? 35 feet?

WITNESS BUSH: It could have been 20-25 feet; I don't know.

MR. SHOBER: And you don't know anything about the lower level at all?

WITNESS BUSH: I never was down there. They told me they hit gas and water, and they got disgusted and were losing money, and they quit.

MR. SHOBER: Yes, it was mentioned by someone that they did hit gas and that they did rob it out, and that was about it.

That is about all I have to ask.

MR. TISDALE: Mr. Bush, I understand that the mine was operated by your father, Clayton Bush; is that correct?

WITNESS BUSH: My uncle.

MR. TISDALE: Your uncle?

WITNESS BUSH: Yes.

MR. TISDALE: When you worked there, how many men were employed; do you remember?

WITNESS BUSH: About five.

MR. TISDALE: How old were you at the time?

WITNESS BUSH: 22.

MR. TISDALE: Do you know whether royalties on the coal were paid to anybody?

WITNESS BUSH: I don't know that.

MR. TISDALE: Do you know who owned the coal?

WITNESS BUSH: Who owned the land?

MR. TISDALE: Who owned the land and the coal?

WITNESS BUSH: No, I didn't know anything about that.

MR. TISDALE: Do you know how much production per day the mine made, how many loads of coal a day it produced?

WITNESS BUSH: When you are in a coal mine like that, one day it is going good and the next day it don't go so good; and you never know what you are going to get out from day to day.

MR. TISDALE: We don't have any idea, then, as to how much coal was mined from --

WITNESS BUSH: No, there were no records kept whatsoever.

MR. TISDALE: That diagram that you are looking at, west of the Porter Tunnel, the Skidmore workings, is similar to the diagram that you provided MESA earlier.

Has anybody from the -- prior to the disaster, had anybody from the coal company, Kocher Coal Company, questioned you about the extent of the Bush Mine?

WITNESS BUSH: They probably did, but I don't remember. It was so long already, I don't remember.

MR. TISDALE: Did any federal mine inspector contact you about it?

WITNESS BUSH: I don't remember.

MR. TISDALE: State inspector?

WITNESS BUSH: Probably did; I don't know.

MR. TISDALE: Those are all the questions I have.

MR. COOK: Mr. Strain?

MR. STRAIN: Mr. Bush, do you remember who the mine was sold to?

WITNESS BUSH: See, I wasn't working at the place when the mine was sold. I had no share in it whatsoever.

MR. STRAIN: Do you know if there was any connection between the mine that you were working in and any mines to the east or west of you?

WITNESS BUSH: This one here or -- what are you saying again? Repeat that question.

MR. STRAIN: Do you know if there were any connections between the mine that you were working in and the mines to either the east or west of you?

WITNESS BUSH: Yes. At the surface they were holed together, up at the upper levels.

MR. STRAIN: At the bottom -- how far down would the last connection be?

WITNESS BUSH: I couldn't answer that one too well. There at the map, because it tells you better than I can see anything.

MR. STRAIN: Do you know how far down you yourself were working?

WITNESS BUSH: What?

MR. STRAIN: Do you know how far down you yourself were working?

WITNESS BUSH: How far I was working? I was in the next-to-the-last level.

MR. STRAIN: Do you know how many feet down it was?

WITNESS BUSH: No, I don't.

MR. STRAIN: Do you know if either the Weaver Mine or the Miller Mine went down any further?

WITNESS BUSH: I don't know.

MR. STRAIN: This mine, at any time that you were inside of it, was it ever inspected by a state mine inspector?

WITNESS BUSH: Not that I know of; not that I can remember.

MR. STRAIN: All right. Those are all the questions I have.

MR. COOK: Mr. Phares?

MR. PHARES: I would like to clarify for the record now, Mr. Bush. You prepared a diagram, which you provided to MESA officials; is that correct?

WITNESS BUSH: Would you repeat that question?

MR. PHARES: Did you at one time prepare a diagram that you provided to officials of MESA?

WITNESS BUSH: Yes. That is similar to it right there.

MR. PHARES: Who did you furnish it to?

WITNESS BUSH: The federal mine inspector.

MR. PHARES: Do you know his name?

WITNESS BUSH: What are you referring to now? Since the accident or when?

MR. PHARES: After the accident.

After the accident, did you prepare a diagram --

WITNESS BUSH: A sketch, yes.

MR. PHARES: Just a sketch.

Was it similar to the sketch that is now shown on the overlay?

WITNESS BUSH: What was that again?

MR. PHARES: The sketch that you prepared and gave to the federal officials, is it similar to the diagram that is on this overlay that is before you now?

WITNESS BUSH: That is similar to it, yes.

MR. PHARES: All right. So, the other map that was previously shown under the overlay, that was not part of your diagram; is that correct?

WITNESS BUSH: The one that was up?

MR. PHARES: Right.

WITNESS BUSH: No, it was not part of it. Porter Tunnel workings you are referring to.

MR. PHARES: Mr. Bush, did Gordon Smith, a state mine inspector, talk to you in 1948 about these old workings?

WITNESS BUSH: I don't know for sure. He probably

did.

It is so long already. I think --

MR. PHARES: He probably did; is that correct?

WITNESS BUSH: Yes, he probably did.

MR. PHARES: What did you tell Mr. Smith?

WITNESS BUSH: I don't know what I told him anymore.

MR. PHARES: Pardon me?

WITNESS BUSH: I don't remember what I told him.

MR. PHARES: Did he ask you how deep the slope had been driven?

WITNESS BUSH: I don't remember all of the questions. I know he gave us a lot of work to do, repairing our mines, what we had to do. We were way behind the laws.

MR. PHARES: Mr. Bush, I am going to hand you a piece of paper and ask you if you can identify it for us, please.

(Document handed to Witness Bush.)

MR. PHARES: Do you recognize that piece of paper?

WITNESS BUSH: Yes. That is the one I gave them.

MR. PHARES: Is that what you prepared yourself?

WITNESS BUSH: Yes.

MR. PHARES: Could you mark Number 7 on that exhibit?

WITNESS BUSH: I lost my pen, sir.

(Pen handed to Witness Bush.)

WITNESS BUSH: Now, what did you say?

MR. PHARES: Would you just mark a Number 7 in the upper right-hand corner of that? Mark it Exhibit Number 7, please.

(Witness Bush complying.)

(Whereupon, the document was marked as Panel's Exhibit No. 7 for identification.)

MR. PHARES: Mr. Bush, what is your current occupation?

WITNESS BUSH: Coal miner.

MR. PHARES: You are a coal mining operator; is that correct?

WITNESS BUSH: Yes.

MR. PHARES: Where is the mine office that you now work out of in relation to the Porter Tunnel Mine office?

WITNESS BUSH: I have my office at my home and a desk out at the mine. It really isn't a big office.

MR. PHARES: I see.

How far is that from Porter Tunner?

WITNESS BUSH: The office or --

MR PHARES: Yes.

WITNESS BUSH: At the mine?

MR. PHARES: At the mine.

WITNESS BUSH: At the mine? Probably seven miles.

MR. PHARES: When was the last time anybody from Porter Tunnel Mine, Kocher Coal Company, approached you to

inquire about the extent of the workings in this old mine?

WITNESS BUSH: On the old mine?

MR. PHARES: Yes.

WITNESS BUSH: I don't remember.

MR. PHARES: Do you remember if they ever approached you?

WITNESS BUSH: I don't remember.

MR. PHARES: You don't remember?

(Witness Bush shaking head.)

MR. PHARES: Mr. Bush, I believe you gave us one of the names of the individuals who operated this old mine. What name was that?

WITNESS BUSH: Clayton Bush -- operating this mine?

MR. PHARES: That operated the old slope?

WITNESS BUSH: Clayton Bush was one of them.

MR. PHARES: Who else operated the mine?

WITNESS BUSH: Ira Bush.

MR. PHARES: Is that I-r-a?

WITNESS BUSH: Yes.

MR. PHARES: Who else?

WITNESS BUSH: Paul Bush.

MR. PHARES: Anybody else?

WITNESS BUSH: Roy Bush.

MR. PHARES: Roy Bush.

They were all partners?

WITNESS BUSH: What?

MR. PHARES: They were all partners; is that correct?

WITNESS BUSH: Yes.

MR. PHARES: How much was the operation sold for; do you know?

WITNESS BUSH: Like I said, I wasn't there working the mine.

MR. PHARES: I have no further questions of Mr. Bush.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Mr. Bush, I am going to repeat myself, and I want to get myself clear. The lower level gangway, do you have any knowledge of the extent of mining, or if that was mined, the way it is marked on that print?

WITNESS BUSH: The way I gather it -- the way I read it, that thing was all robbed out there. Is that what that says?

All the coal was taken out, slope pillars and all.

MR. VICINELLY: Yes. I am referring to the lower gangway, the lowest gangway, going east and west.

WITNESS BUSH: Yes.

MR. VICINELLY: Do you have knowledge or do you know that it was turned east and west and the approximate extent of mining?

WITNESS BUSH: Like I said, I didn't work down there

All I was doing was working on the farm. My uncle would come over to our place, and sometimes we would talk about the coal mine down below there, what they were doing.

But I don't know how far they were in the gangway, and I don't know how far the breasts were up or if any were drove up.

I know they just talked about the gas. When they started going up with the breast, they hit gas. And then, of course, they didn't have the ventilation to take the gas out; and they just couldn't work in the mine.

I imagine that was the way it was. I don't know for sure.

MR. VICINELLY: That lower gangway that is marked on Exhibit 6, was that information given to MESA federal inspectors?

WITNESS BUSH: Yes. That there is what I remember my uncle telling me. That is all. I wasn't down there. I only remember what my uncle told me.

MR. VICINELLY: During the time that you were working at that mine, do you recall a fatal accident?

WITNESS BUSH: Yes.

MR. VICINELLY: Do you remember the year when it occurred?

WITNESS BUSH: I believe it was '42; 1942.

MR. VICINELLY: And who the person was?

WITNESS BUSH: My Uncle Ira.

MR. VICINELLY: Do you recall where the accident occurred?

WITNESS BUSH: To the best of my knowledge, the next-to-the-bottom level.

MR. VICINELLY: To the east or the west?

WITNESS BUSH: To the west.

MR. VICINELLY: To the west of the slope?

WITNESS BUSH: Yes.

(Mr. Rogers indicating.)

WITNESS BUSH: In a little further than that.

(Mr. Rogers indicating.)

WITNESS BUSH: More in.

(Mr. Rogers indicating.)

WITNESS BUSH: Down a little bit.

(Mr. Rogers indicating.)

WITNESS BUSH: There, about.

MR. VICINELLY: Do you know if the inspector was notified of this fatal -- or if an inspector came out to investigate this fatal accident?

WITNESS BUSH: To the best of my knowledge, I never seen an inspector there before the accident.

MR. VICINELLY: Do you know who the state inspector was at that time?

WITNESS BUSH: I never knew an inspector at that time.

MR. VICINELLY: Those are all the questions I have.

MR. COOK: Mr. Bush, we have two or three more questions at this time.

Does the overlay that you are looking at now, to the best of your knowledge, accurately represent what you told the MESA inspector?

WITNESS BUSH: About the same thing.

MR. COOK: As you look at that overlay, to the main slope, to your right--also to the east side of the main slope -- did you say that you had any knowledge of that slant slope there?

WITNESS BUSH: Faint. I don't think it went down that far. I don't think it did.

MR. COOK: But you think there was a slant slope there?

WITNESS BUSH: What is that?

MR. COOK: Do you think that slope was there, but the extent of it may not have been than far down?

WITNESS BUSH: That is right.

MR. COOK: So, there was a second slope over there, but the extent of it may be too far on that map?

WITNESS BUSH: Like I said, when they started up there -- that is the first lifted strip out there right now. And up at the top -- they went down, I would say, to the first level, say, 250 feet; and they seen they were going in the

wrong direction.

Then they came back and drove a gangway west and drove a breast up there and connected back into that wing slope and just forgot about the other slope.

MR. COOK: I believe you said, for the record, that you now operate a coal mine.

WITNESS BUSH: Yes.

MR. COOK: Who do you sell your coal to now, Mr. Bush.

WITNESS BUSH: Well, we sell it to five different breakers.

MR. COOK: Who are those breakers, please?

WITNESS BUSH: Underkoffler --

MR. COOK: Who is that, please?

WITNESS BUSH: Underkoffler, Lykens; Direnzo, Minersville; Schneck in Pine Grove; Hegins Mining; and Superior.

MR. COOK: Do you know if Mr. Leon Kocher has any interest in any of those breakers?

WITNESS BUSH: Not that I know of.

MR. COOK: You are not selling coal to Mr. Leon Kocher?

WITNESS BUSH: No, I am not selling to Kocher.

MR. COOK: Any further questions?

(No response.)

MR. COOK: Thank you, Mr. Bush.

MR. VICINELLY: Thank you.

(Witness excused.)

MR. COOK: At this time, we would like to call Mr. Paul Bush.

MR. SAVIT: We would like to extend our objection on the record concerning Exhibit 7.

MR. COOK: Exhibit 7?

MR. SAVIT: Yes.

MR. COOK: It is noted for the record.

Whereupon,

PAUL BUSH

having been duly sworn, testified as follows:

MR. PHARES: Mr. Bush, it is going to be necessary for you to speak loudly and clearly into the microphone that is in front of you.

Would you please state your name?

WITNESS BUSH: Paul Bush.

MR. PHARES: What is your address?

WITNESS BUSH: Lykens, R.D.

MR. PHARES: Mr. Bush, before we begin the questioning, I want you to understand that this is a formal investigatory hearing.

A written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question. And you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have a right not to make any statement which might lead to your conviction in any state or federal offense.

You should understand that any statement you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS BUSH: Yes.

MR. PHARES: Thank you.

MR. COOK: Mr. Bush, can you hear me all right?

WITNESS BUSH: Yes.

MR. COOK: What is your present occupation?

WITNESS BUSH: Farmer.

MR. COOK: Farming.

Do you operate any mines at all at the moment?

WITNESS BUSH: What is that?

MR. COOK: Do you operate any mines at this time?

WITNESS BUSH: That I am operating right now?

MR. COOK: Yes, sir.

WITNESS BUSH: Yes.

MR. COOK: You do have some mines that you are operating now?

WITNESS BUSH: Yes.

MR. COOK: How many mines, sir?

WITNESS BUSH: What?

MR. COOK: How many mines are you operating now?

WITNESS BUSH: How many --

MR. COOK: Coal mines?

WITNESS BUSH: No, I am not operating any mines; I am farming.

MR. COOK: You are farming altogether now?

WITNESS BUSH: Yes.

MR. COOK: We are interested in obtaining all of the information we can about what is commonly known as the old Bush Mine in the vicinity of the Porter Tunnel Mine; in fact, to the west of the Porter Tunnel Mine that is now being operated.

Did you operate a mine in that vicinity at one time?

WITNESS BUSH: I was on top. I worked at the top of the mine.

MR. COOK: Yes, sir.

Were you part owner in the mine that was working in

that area?

WITNESS BUSH: Yes.

MR. COOK: Who were your partners, Mr. Bush?

WITNESS BUSH: Why, Ira Bush, Roy Bush, and Albert Bush, Clayton Bush.

MR. COOK: When did you open this mine?

WITNESS BUSH: I don't know. I think it was around '38. I couldn't tell you for sure.

MR. COOK: About 1938?

WITNESS BUSH: '38 or '39; I couldn't swear to it.

MR. COOK: Yes.

Do you remember who worked in the mine? Did all of the partners work in the mine?

WITNESS BUSH: No. I was always on top.

MR. COOK: You were always on top? You didn't work underground?

WITNESS BUSH: No.

MR. COOK: Did you ever have occasion to go underground?

WITNESS BUSH: Oh, once in awhile something would happen, a wagon jumped up, or something like that --

MR. COOK: Yes, sir.

WITNESS BUSH: -- and I would go inside.

MR. COOK: In other words, you could go underground, and you knew enough about the mine; you could travel wherever

you wanted to by yourself; but you didn't work underground?

WITNESS BUSH: That is right.

MR. COOK: What was your position with the company, Mr. Bush?

WITNESS BUSH: Well, I was hoisting and I was driving truck.

MR. COOK: Yes, sir.

WITNESS BUSH: We had another guy later on, then, hoisting.

MR. COOK: Do you remember about how much coal you loaded per day?

WITNESS BUSH: Well, we had them small dump trucks.

MR. COOK: Yes, sir.

WITNESS BUSH: And we used about six or so a day.

MR. COOK: Six or so a day?

WITNESS BUSH: Yes, six.

MR. COOK: Would those trucks hold four or five tons?

WITNESS BUSH: About four ton.

MR. COOK: About four ton.

Who owned the surface rights at the time?

WITNESS BUSH: I don't know.

MR. COOK: Who owned the mineral rights?

WITNESS BUSH: I don't know.

MR. COOK: Were you paying royalties to anyone at

that time?

WITNESS BUSH: No.

MR. COOK: Had you contacted any engineering service to map your mine? Were there any maps at all made of the mine?

WITNESS BUSH: No, not that I know of.

MR. COOK: In other words, you didn't have engineers that would draw up maps for you or survey the mine?

WITNESS BUSH: No.

MR. COOK: Do you recall what the deepest penetration of your slope would have been into the coal bed, how far it was below the surface?

WITNESS BUSH: To tell the honest truth, I couldn't tell you right on the dot.

MR. COOK: Yes, but to the best of your ability.

WITNESS BUSH: From 600 to 700 to 800 feet. I couldn't tell you right, because we never measured it.

MR. COOK: 600, 700, 800 feet?

WITNESS BUSH: Yes.

MR. COOK: Do you recall how many levels were turned off of this slope?

WITNESS BUSH: Four of them.

MR. COOK: Four levels?

WITNESS BUSH: Yes.

MR. COOK: Would you recall about what centers or distances you would have turned levels?

WITNESS BUSH: Well, I don't know right. We went across the pitch at first a little bit. Then, we just lost our distance and come back.

We were trying to get 200 feet.

MR. COOK: About 200 feet?

WITNESS BUSH: We were trying to get 200 feet.

MR. COOK: So, if you were down about 800 feet, you would have had maybe four levels; or if you went down 600, maybe three levels?

WITNESS BUSH: Yes. That is right.

MR. COOK: Who were you selling your coal to at that time, Mr. Bush?

WITNESS BUSH: Where we could sell it. I couldn't tell you where we sold it. At that time, any breaker that would take it.

Art's over at Valley View was getting the coal there for awhile, and we were selling it to some of these breakers, and Williamstown and all around --

MR. COOK: Yes, sir.

WITNESS BUSH: -- because you couldn't sell it any time you wanted to sell it. You sold it wherever you could sell it.

MR. COOK: Would you recall selling coal to a Mr. Leon Kocher?

WITNESS BUSH: No, we never sold coal to him.

MR. COOK: You never sold coal to him at all?

WITNESS BUSH: That is right.

MR. COOK: About what time, Mr. Bush, did you -- or when did you sell your mine. I understood you sold your mine; is that correct?

WITNESS BUSH: What we did is we sold the equipment.

MR. COOK: You sold the equipment?

WITNESS BUSH: But that is about all we did.

MR. COOK: And would that be selling the mining rights also?

WITNESS BUSH: Yes, they got everything.

MR. COOK: Yes, sir.

About when would you have sold your equipment and your mining rights?

WITNESS BUSH: What did you say?

MR. COOK: About what year did you sell out this mine?

WITNESS BUSH: Around '43 or somewhere around there. I couldn't tell you right.

MR. COOK: Yes, sir; but you operated the mine from something like 1938 to 1943?

WITNESS BUSH: Somewhere around there, yes, sir.

MR. COOK: What was your reason for selling the mine at that time?

WITNESS BUSH: Well, the war broke out, you know.

We decided we could get work somewhere else and get away from the mines, because before we couldn't get no work.

And that is when we could get work, and we decided to sell the mine.

MR. COOK: So, you sold it at that time?

WITNESS BUSH: Yes.

MR. COOK: Was the mine getting -- well, for your operation -- pretty deep for what would be considered a small mine operation?

WITNESS BUSH: Yes.

MR. COOK: Was water giving you a particular problem at that time?

WITNESS BUSH: Yes.

MR. COOK: Ventilation?

WITNESS BUSH: That is right.

MR. COOK: Who did you sell your rights to? This mining operation, to whom did you sell that?

WITNESS BUSH: Well, Leon Kocher finally got it. But then -- you see, when he come, he sent a miner down in the mines to look things over.

MR. COOK: Yes, sir.

WITNESS BUSH: As far as Leon being in the mines, I don't know for sure. I couldn't swear to that, because he had another guy look this thing over.

When I had sold it -- why, he said he would take it.

When the guy come up, he said, "It is worth that price," that he should take it.

We had three other guys working for us.

MR. COOK: Yes, sir.

WITNESS BUSH: When they come up, then he asked them guys, "Do you want to work it?"

They said, "Yes."

So, they started working the mine. I don't know -- I don't really believe Leon was ever in the mines, right, because he was interested in the coal -- he had run that Stars. He had bought that Stars Coal Breaker, and he was interested in coal.

MR. COOK: So, for the record, you say Mr. Leon Kocher came to your mine with another person -- at least one other person?

WITNESS BUSH: Yes.

MR. COOK: And that other person went underground, came back and reported that the mine was worth the price that you were selling it for?

WITNESS BUSH: Yes.

MR. COOK: Mr. Kocher bought your interests or your rights at that location?

WITNESS BUSH: Yes. And the way I understand it, the other guys got paid that back to Kocher and got the coal; you know what I mean. They worked it.

MR. COOK: Then, for the record, again, you say that some of the people working for you, he asked them if they wanted to continue working that mine?

WITNESS BUSH: Yes. I heard him saying that. That is what I heard.

MR. COOK: Yes, sir.

Do you know about how long Leon operated that mine after --

WITNESS BUSH: I really never talked to him afterwards about it. I mean, he never was there since.

MR. COOK: Was it discussed at that time maybe where they might want to work in the mine, what level they would be working in?

WITNESS BUSH: Nothing was said, because he went home; and there was nothing said.

MR. COOK: Was this just a cash sale, so much money?

WITNESS BUSH: Yes, they just give me the cash, and that was it.

MR. COOK: I see. Back in that day in time, was there paperwork involved?

WITNESS BUSH: Nothing.

MR. COOK: Would you recall, Mr. Bush, about how much you sold the mine for?

WITNESS BUSH: $300 we got for it.

MR. COOK: $300?

WITNESS BUSH: That is what the equipment was worth. That was the hoisting engine, drums, and stuff.

MR. COOK: Yes.

Did Mr. Kocher talk to you about the extent of the mining, how much you had mined in the area?

WITNESS BUSH: No, nothing was said.

MR. COOK: Nothing was said about it.

WITNESS BUSH: He just went down there, and nothing was said.

MR. COOK: You say Mr. Kocher did not go underground?

WITNESS BUSH: I don't think he did. I couldn't swear to it.

MR. COOK: Yes.

Mr. Bush, right at the moment, those are all the questions I have.

Mr. Vicinelly?

MR. VICINELLY: I have no questions.

MR. COOK: Mr. Shober?

MR. SHOBER: I have no questions.

MR. COOK: Mr. Tisdale?

MR. TISDALE: I was wondering, Mr. Bush, when you got ready to start the mine, did you have to talk to anybody about whether you could open a mine at that location?

WITNESS BUSH: Nobody here. They were opening holes all around us there, and we just -- everybody was looking for

coal.

MR. TISDALE: Do you know who owned the coal?

WITNESS BUSH: No. I think the Reading was under bankruptcy; I don't know. I don't know who owned it.

MR. TISDALE: Did you have to answer to anybody about the amount of coal that you mined or where you sold it?

WITNESS BUSH: No.

MR. TISDALE: I don't have any more questions.

MR. COOK: Mr. Strain?

MR. STRAIN: I have no questions.

MR. COOK: Mr. Phares?

MR. PHARES: Mr. Bush, how did Mr. Leon Kocher happen to know that you were interested in selling your mine?

WITNESS BUSH: I don't know if somebody -- we were going to quit, you know, sell it. Somebody told him; I don't know how. I don't know how that happened.

MR. PHARES: By the time that you sold out your operation, was Mr. Kocher operating the breaker at that time?

WITNESS BUSH: Was Kocher operating the breaker?

MR. PHARES: Yes.

WITNESS BUSH: He was operating the breaker over there at Valley View, not that new one.

MR. PHARES: Yes.

WITNESS BUSH: Over there at Valley View.

MR. PHARES: Prior to March 1st, 1977, which was the

date of this accident, were you approached by anyone inquiring as to the extent of the old workings in your mine?

WITNESS BUSH: Nobody.

MR. PHARES: I have no further questions.

MR. COOK: Any other questions?

(No response.)

MR. COOK: Thank you, Mr. Bush.

(Witness excused.)

MR. COOK: We will take about a 15-minute break now, please. We will come back at about 10 till 11:00.

(Recess.)

MR. COOK: We will reconvene the hearing, please.

Before we get started, I would like to ask Mr. Lou Sauers to stand please. He is with Congressman Yatron, representing him here at this hearing.

If any of you would like to talk to him, well, you will know who he is and that he is here.

(Mr. Sauers complying.)

MR. COOK: At this time, we would like to call Mr. Gerald Curran, please.

Whereupon,

GERALD CURRAN

having been duly sworn, testified as follows:

MR. PHARES: Please state your name and spell it for the record.

WITNESS CURRAN: Gerald Curran, C-u-r-r-a-n.

MR. PHARES: What is your address?

WITNESS CURRAN: R.D. 2, Box 340A, Pottsville, PA.

MR. PHARES: Mr. Curran, before we begin the questioning, I want you to understand that this is a formal investigatory hearing.

A written transcript is being made of the statements taken.

You have the right to have counsel present when you are testifying. You may consult with counsel before answering any question. And you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to you conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights that I have just explained to you?

WITNESS CURRAN: Yes, sir.

MR. PHARES: Thank you.

Mr. Curran, what is your current occupation?

WITNESS CURRAN: Mining engineer, self-employed.

MR. PHARES: When did you graduate from engineering school?

WITNESS CURRAN: Back in 1944.

MR. PHARES: What did you do after 1944?

WITNESS CURRAN: Served a tour of duty in the service and then was employed by a major line company from then on until 1962.

MR. PHARES: I am sorry; I didn't catch the name of that company.

WITNESS CURRAN: Indian Head Coal Company, called Pagnotti Coal Industries up until 1962, and then went in business for myself.

MR. PHARES: What type of work were you doing up until 1962?

WITNESS CURRAN: Well, underground surveys and surface surveys for the coal companies and independent mines.

MR. PHARES: Where was this work being done?

WITNESS CURRAN: Over the entire anthracite coal field.

MR. PHARES: Do you have any personal knowledge of engineering surveys or mapping having been performed for the old independent mines formerly known as the Bush, Weaver, and Miller slopes?

WITNESS CURRAN: I know of surveys done there.

MR. PHARES: Who conducted the surveying and mapping?

WITNESS CURRAN: It was done by two people who are now dead.

MR. PHARES: What are their names?

WITNESS CURRAN: Namely, Mr. Dave Evans and Mr. Lou Price.

MR. PHARES: Do you know when this work was performed?

WITNESS CURRAN: About 1940, according to the map.

MR. PHARES: For whom was the work performed, if you know?

WITNESS CURRAN: I really couldn't answer that in all truthfulness, because I would think it was done -- I would think it was done for the coal company who operated in the area nearby at that time or else an independent.

MR. PHARES: Are you now in possession of the mapping that you are referring to?

WITNESS CURRAN: Yes, sir.

MR. PHARES: Are those maps on the table with you today?

WITNESS CURRAN: Yes, sir.

MR. PHARES: Mr. Curran, I know that these maps are quite bulky, but is there someway that you could open the map to the relevant portion that we are interested in; that is, the old mine formerly known as the Bush slope?

WITNESS CURRAN: I could open it to the section if somebody would give me a hand here to hold it.

This is the area that we are talking about, right in here.

(Witness Curran indicating.)

MR. PHARES: Now, is there any indication on this map that you have exhibited of when these were mapped out?

WITNESS CURRAN: There are dates on there.

MR. PHARES: Is there a date for the Bush?

WITNESS CURRAN: There is a date for the workings; yes, there is.

MR. PHARES: What is that date?

WITNESS CURRAN: 5/13/1940. May the 13th, 1940.

MR. PHARES: Mr. Curran, we are going to refer to this as Exhibit Number 8; and we will mark on it with pencil that this is Exhibit Number 8.

I understand that this is the original that you have in your possession?

WITNESS CURRAN: What we would like to do, we would like to take possession of this and make a copy of the relevant portion, for our records, and return the original to you.

WITNESS CURRAN: A copy has been made for MESA.

MR. PHARES: Do we have a copy of that?

MR. SHUTACK: Yes.

MR. PHARES: All right. For purposes of the hearing

today, this will be Exhibit Number 8; and any reference to it will be under that name.

(Whereupon, the document was marked as Panel's Exhibit No. 8 for identification.)

MR. PHARES: I am going to turn the questioning over to Mr. Cook at this point.

MR. COOK: While you are there, possibly, could you point out what is known as the Bush slope, please?

WITNESS CURRAN: Right in there.

(Witness Curran indicating.)

MR. COOK: Do we have a copy of that map here that could be used better than this?

MR. SHUTACK: No, not here.

MR. COOK: Again, looking at Exhibit 8, where is the Bush slope?

(Witness Curran indicating.)

MR. COOK: What are the workings that are shown on the map down below that area?

WITNESS CURRAN: There is a slope driven across here, with gangways going east and west.

(Witness Curran indicating.)

MR. COOK: I don't have any more referring to the map. I am going to ask the panel members if they have questions while you are here with the map that they would like to ask.

(Panel members perusing map.)

MR. COOK: Let's see if the other panel members have any questions.

Mr. Vicinelly?

MR. VICINELLY: Would you take Exhibit 3 out for us; will you, please?

(Mr. Rogers complying.)

MR. VICINELLY: Exhibit 3 is what was furnished to the state and federal inspectors. The survey that is shown of the Bush Mine, would that be the same information that is shown on the original; that is, Exhibit 8?

WITNESS CURRAN: Yes, it is.

MR. VICINELLY: The survey that we have on Exhibit 3, the abandoned workings that were surveyed, is identical to Exhibit Number 8?

WITNESS CURRAN: This here.

(Witness Curran indicating.)

MR. VICINELLY: Is that correct?

WITNESS CURRAN: Yes.

MR. VICINELLY: Were copies of that furnished to Kocher Coal Company?

WITNESS CURRAN: Yes, they were.

MR. VICINELLY: Do you know when they were furnished?

WITNESS CURRAN: I couldn't give you the exact date on the thing. It was, possibly, two years ago, I guess -- a

year-and-a-half.

I wouldn't know the exact date that I gave Mr. Rissinger the prints of this.

MR. VICINELLY: You don't have any information on the extent of the slope from the Bush Mine other than what is on the map?

WITNESS CURRAN: No, sir.

MR. VICINELLY: I don't have any further questions.

MR. COOK: Yes, Mr. Strain.

MR. STRAIN: How deep does the slope go that is shown on Exhibit Number 8?

WITNESS CURRAN: Oh, horizontal I can give you the thing, but I don't have a section to it; I would have to give you the section there.

I don't even have a scale; so, I would say approximately 300 feet.

MR. STRAIN: There is no penetration below that, that 300 feet?

(Scale handed to Witness Curran.)

WITNESS CURRAN: It is about 250 feet.

There is no penetration shown on here; but the workings was left open, which would indicate that it was inaccessible at the time that this survey was made.

MR. STRAIN: All right. Thank you. Those are all of my questions.

MR. COOK: Mr. Shober?

MR. SHOBER: I have no questions.

MR. COOK: Mr. Tisdale?

MR. TISDALE: I only have one question, Mr. Curran. The type of mapping indicates that the mapping is not complete of the lower workings?

WITNESS CURRAN: Yes, sir. The information was put on that was available at that time.

MR. TISDALE: And there are no records that we know of anywhere that indicate the depth of the workings?

WITNESS CURRAN: Not that I can say. I am going back to 1946, of my knowledge of the area.

MR. COOK: Mr. Phares?

MR. PHARES: I have no questions.

MR. COOK: We would like to ask you a few more questions, please, Mr. Curran; but I don't think we will be referring to the map.

Mr. Curran, I believe that you said that you were a graduate engineer?

(No response.)

MR. COOK: Excuse me; maybe you didn't say it. Are you a graduate engineer?

WITNESS CURRAN: No, I am not.

MR. COOK: Are you a registered professional surveyor?

WITNESS CURRAN: Professional engineer.

MR. COOK: You are a professional surveyor in the State of Pennsylvania; and you are now -- or you were somewhere in the 1960's self-employed?

WITNESS CURRAN: Yes, sir.

MR. COOK: Did you do any surveying for the original owners of the Porter Tunnel Mine?

WITNESS CURRAN: No, I didn't.

MR. COOK: Are you aware of the original surveys for the Porter Tunnel Mine started around 1948?

WITNESS CURRAN: Yes, sir.

MR. COOK: Do you have the original notes of the engineer who surveyed the information that you have on this tracing?

WITNESS CURRAN: No, I haven't. No one knows where those notes are. I tried to acquire them, and they are just not available.

MR. COOK: All right, sir.

If it isn't proprietary, from where did you acquire the tracings?

WITNESS CURRAN: Down through the years, from a person that had been doing the work in the area before and since then has died. I got the tracings from him.

MR. COOK: As a professional engineer, do you know if the opening of the Bush Mine, if there is a common tie between the survey of the Porter Tunnel Mine and what is

plotted there as the Bush Mine?

WITNESS CURRAN: Yes, sir, there is. It is on the same coordinate base.

MR. COOK: It is on the same corrdinate base.

Are the base markers for those coordinate bases available today?

WITNESS CURRAN: Yes, sir.

MR. COOK: In other words, the surveys were taken from the same common base mark?

WITNESS CURRAN: Permanent points of this particular area are available today.

MR. COOK: How about elevations?

WITNESS CURRAN: Elevations are available today.

MR. COOK: All right. Would the --

WITNESS CURRAN: A common base.

MR. COOK: A common base for both elevations and also the survey?

WITNESS CURRAN: Yes, sir.

MR. COOK: Have you given many copies of this tracing of the old Bush Mine -- have many people requested copies prior to the inundation?

WITNESS CURRAN: No one got any copies of this, outside of Kocher Coal Company has a copy of the tracing.

MR. COOK: What were the circumstances under which the Kocher Coal Company acquired a copy of that?

WITNESS CURRAN: I was employed by Kocher Coal Company as a consultant part-time, and Mr. Rissinger of Kocher Coal Company needed an engineer full-time, which I couldn't go with them full-time.

At the time that I was leaving them, I told him that I would -- Mr. Rissinger asked for a copy of the tracings that I have, which I gave him.

MR. COOK: So, you gave him a copy at that time, which would have been a couple of years ago, maybe?

WITNESS CURRAN: Right. Yes, sir.

MR. COOK: You were doing some engineering work at that time for the Kocher Coal Company?

WITNESS CURRAN: Yes, sir.

MR. COOK: Had the West Skidmore section been started at that time?

WITNESS CURRAN: No, sir.

MR. COOK: It had not been started yet?

WITNESS CURRAN: No, sir.

MR. COOK: Do you have knowledge if the information from this tracing was transferred to their original hardbacks or tracing?

WITNESS CURRAN: I don't know what they transferred it on. All I know is that it was on a print --

MR. COOK: It was on a print.

WITNESS CURRAN: -- that I submitted; a copy of this.

MR. COOK: As a professional engineer, if you extended the slope -- I guess I might go back a little further than that.

I think you indicated that probably the old workings were inaccessible when what you have plotted here, when that survey was made.

WITNESS CURRAN: Yes, sir.

MR. COOK: So, you were probably just looking at the top of the slope, and you located the top and gave the angle of the slope.

WITNESS CURRAN: Yes, sir.

MR. COOK: That is approximately what this tracing shows.

WITNESS CURRAN: Down into the gangway.

MR. COOK: Down into the gangway.

As a professional engineer and working in this field, if you intersected the old Bush slope so that it intersected the West Skidmore Gangway, do you think you would get a reasonable tie if that old slope had extended that far?

What kind of an error would you expect out of the survey if they, in fact, went that far?

WITNESS CURRAN: Do you mean if they continued down the Bush slope with the survey and tied into the Porter Tunnel workings?

MR. COOK: Let's just for a moment assume that the

old Bush slope was intersected.

WITNESS CURRAN: Knowing the type of surveys that have been run in the area, I would say it would be less than a foot; less than a foot on the total tie-in there, because of my experience of some of the ties that I have done on the property.

MR. COOK: I see.

WITNESS CURRAN: You are talking tie coordinate value.

MR. COOK: Tie coordinate, yes.

WITNESS CURRAN: Tie elevation-wise, plus or minus four or five feet, because of your error, as probably you are familiar with, on a slope survey such as the pitch that you have there.

MR. COOK: Yes, sir.

WITNESS CURRAN: Probably creep an error of maybe four to five feet; maybe not even that, depending on how careful that chief of party was that conducted the survey.

MR. COOK: What kind of surveys -- or do you know -- are used with the Kocher Coal Company? Is it azimuth surveys, angle surveys? What type of surveys were used?

WITNESS CURRAN: Continuous azimuth.

MR. COOK: Continuous azimuth.

Do they have check surveys to balance their points?

WITNESS CURRAN: I cannot answer that. Their

engineer performed that work; right up until the time that I was familiar with it, the surveys were all checked and balanced.

MR. COOK: Checked and balanced?

WITNESS CURRAN: Yes, sir.

MR. COOK: When you were there, normally speaking, what was the error of tie?

WITNESS CURRAN: Well, I would go with, probably, one percent.

MR. COOK: And the elevation?

WITNESS CURRAN: Elevations on that particular area there, Mr. Cook, tied within a foot-and-a-half all the way around that whole property.

MR. COOK: Thank you, Mr. Curran.

Let's see if some of the other panel members have any questions.

Mr. Vicinelly?

MR. VICINELLY: I have no questions.

MR. COOK: Mr. Shober?

MR. SHOBER: No questions.

MR. COOK: Mr. Strain?

MR. STRAIN: Yes.

Mr. Curran, on the map that has been traced and marked as Exhibit 8, do you know in whose possession it was in 1940, when it was made, and shortly afterwards?

WITNESS CURRAN: I don't know in whose possession it

was in 1940.

MR. STRAIN: Well, how did you come by its possession?

WITNESS CURRAN: In later years, in 1947, when we operated the Joliett Coal Company, which was adjacent to Tower City workings.

MR. STRAIN: Who did you receive it from?

WITNESS CURRAN: Sir?

MR. STRAIN: Who did you receive it from?

WITNESS CURRAN: Mr. Dave Evans.

MR. STRAIN: You have had it in your possession since 1946?

WITNESS CURRAN: I would say continuously in my possession since 1948.

MR. STRAIN: What happened during those two years?

WITNESS CURRAN: Well, it was with other engineers in between and out; we give information from one to the other. Someone else might have borrowed it, had it for a couple months, back to me; I might have given it to someone else.

MR. STRAIN: All right. Those are all the questions I have.

MR. COOK: Mr. Tisdale?

MR. TISDALE: Nothing.

MR. COOK: Mr. Phares?

MR. PHARES: No questions.

MR. COOK: We have a couple other questions, Mr.

Curran.

On the tracings does it indicate if the old Bush Mine was full of water? Were there any indications that it was full?

WITNESS CURRAN: Mr. Cook, I would have to look at the tracing itself.

MR. COOK: Would you mind doing that, please?

(Witness Curran complying.)

WITNESS CURRAN: There is no indication on here saying anything about full of water.

MR. COOK: We have one other question from the audience, if you are in a position to answer this question.

I believe you stated that, possibly, you had reason to believe that tracing was made in 1940?

WITNESS CURRAN: Before that.

MR. COOK: Before that?

WITNESS CURRAN: About, I would say, at the turn of the century, probably 1900 or prior.

MR. COOK: All right, the original tracing.

WITNESS CURRAN: Mr. Cook, may I? The way these tracings come about, there is a hardback map made first. These tracings are then traced off of the hardback and posted up to date; so that the tracing itself might have been made maybe 1920, but the workings that are on it date back to the

turn of the century or before.

MR. COOK: All right. So, the original surveys are plotted on a hardback, and the tracings are made from the hardback?

WITNESS CURRAN: Yes, sir.

MR. COOK: The information that you have on the Bush Mine, when would that have been plotted on the hardback? Would you have knowledge of that?

WITNESS CURRAN: I doubt very much if that is plotted on the hardback, because the individuals that performed that evidently left it in pencil.

MR. COOK: So then, probably, the survey information that was available on the Bush Mine was plotted directly on a tracing?

WITNESS CURRAN: Yes, sir.

MR. COOK: Would you have knowledge about when that would have been plotted?

WITNESS CURRAN: 1940.

MR. COOK: 1940.

There is a question, and if you could --

WITNESS CURRAN: Let's say I would assume it to be 1940, because if they ran the survey at that time, they plotted it right on.

MR. COOK: Yes, sir. And I appreciate that you are working from someone else's notes and that type of thing.

But if you could, please, clear up -- we have had testimony that the Bush Mine was worked up until about 1943. So, if this was plotted in 1940, the mine would have been accessible to surveys.

I think somewhere you said that maybe the maps indicated that the workings were not accessible.

WITNESS CURRAN: Myself looking at the map would assume, Mr. Cook, it to be inaccessible, because as an engineer, this is the way I would leave a map if I couldn't get into it, that I knew the workings extended.

MR. COOK: Yes. Again, I appreciate that you are working from someone else's notes and supposition a lot, too.

But, apparently, the mine was worked up until 1943, so it would have been accessible for engineers if the people running the mine had wanted surveys, they probably could have gotten in there.

WITNESS CURRAN: Yes, sir.

MR. COOK: Any other questions?

(No response.)

MR. COOK: Thank you very much, Mr. Curran.

(Witness excused.)

MR. COOK: We would like to have Mr. George Madenford at this time, please.

Whereupon,

GEORGE MADENFORD

having been duly sworn, testified as follows:

MR. PHARES: Would you please state your name and spell your last name?

WITNESS MADENFORD: George Madenford, M-a-d-e-n-f-o-r-d.

MR. PHARES: What is your address, Mr. Madenford?

WITNESS MADENFORD: Joliett, PA, 171 Main Street.

MR. PHARES: Mr. Madenford, before we begin the questioning, I want you to understand that this is a formal investigatory hearing.

A written transcript is being made of the statements taken.

You have a right to have counsel present while you are testifying. You may consult with counsel before answering any question. And you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS MADENFORD: Yes.

MR. PHARES: Thank you.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: George, at the present time, where are you employed?

WITNESS MADENFORD: I am not employed.

MR. VICINELLY: Were you an employee of the Kocher Coal Company?

WITNESS MADENFORD: Yes.

MR. VICINELLY: At the time that you were an employee of the Kocher Coal Company, what was your position?

WITNESS MADENFORD: I guess lead miner, I would say.

MR. VICINELLY: How long have you worked at the Kocher Coal Company?

WITNESS MADENFORD: Approximately, five years; that is including, I think, about a-year-and-a-half outside work.

MR. VICINELLY: How long have you worked in the anthracite mines?

WITNESS MADENFORD: 26 or 27 years, approximately.

MR. VICINELLY: Did you work on the West Skidmore section?

WITNESS MADENFORD: Yes, I did.

MR. VICINELLY: How long?

WITNESS MADENFORD: I can't say exactly how long, but I helped start that gangway off.

MR. VICINELLY: How far in was the gangway driven?

WITNESS MADENFORD: When I was laid off?

MR. VICINELLY: Yes.

WITNESS MADENFORD: Number 18.

MR. VICINELLY: As a lead miner, where were you working, what heading or breast?

WITNESS MADENFORD: I was working in the gangway.

MR. VICINELLY: You were working in the gangway.

Will you describe the work that was performed when you were working in the gangway?

WITNESS MADENFORD: Yes; drilling; loading holes; shoveling coal; shoveling rock; putting on pans, conveyor pans, chains; timbering; making hitches; everything that goes with mining.

MR. VICINELLY: During the time that you were an employee in the gangway, who did you work with?

WITNESS MADENFORD: I had quite a number of fellows I worked with; but when we started that gangway out, Philip Sabatino, Walter Grose; there was a fourth guy at different times, but I can't remember who he was at this time.

MR. VICINELLY: How long did you work with Mr. Grose

and Mr. Sabatino?

WITNESS MADENFORD: I worked with Mr. Grose -- I can't -- I think it was at Number 6 or Number 7, and then he was sent up the pitch to work.

I believe Zanella -- John Zanella -- came down with Philip and I. I worked with Philip around between Number 10 and Number 11. And I was put on opposite shifts then.

Then I worked with, I think it was, John Morgan and Zanella.

MR. VICINELLY: During the time that you were working in the Skidmore, were you aware that there was a possibility of abandoned workings in the area?

WITNESS MADENFORD: Yes.

MR. VICINELLY: What precautions were taken when approaching abandoned workings?

MR. VICINELLY: We drilled down holes. We drilled ahead; we called it "drilling ahead."

MR. VICINELLY: Will you explain to us the number of holes that were drilled, how deep, and how you drilled ahead?

WITNESS MADENFORD: Well, we drilled up a pitch and straight ahead.

MR. VICINELLY: Did you drill down the slope?

WITNESS MADENFORD: No.

MR. VICINELLY: Were you instructed not to drill

down the slope?

WITNESS MADENFORD: No.

MR. VICINELLY: Were you instructed to drill down the slope?

WITNESS MADENFORD: Palmer Merwine instructed us to drill down the pitch, straight ahead, and up the pitch. But it was just about -- I would say the nature of the coal, we found it almost impossible to drill down the pitch.

I mean, it was soft. We could hardly clean the holes, we figured. And that is why we didn't drill down the pitch.

MR. VICINELLY: Did you notify Mr. Palmer Merwine that you were not drilling down a hole?

WITNESS MADENFORD: Nobody ever asked us if we were drilling down.

MR. VICINELLY: You stated that you worked how long? 26 years in the anthracite mines?

WITNESS MADENFORD: That is right.

MR. VICINELLY: Were you aware of the hazards connected when approaching abandoned workings?

WITNESS MADENFORD: Yes, I am.

MR. VICINELLY: And you did not notify your assistant foreman that you were not drilling the bottom holes?

WITNESS MADENFORD: Well, like I said, nobody asked us if we were or not. They checked the holes forward and

checked the holes up the pitch, but nobody checked them down.

MR. VICINELLY: Do you feel that it was not important enough to notify him that you were not drilling the holes on the bottom, when you were underground and other people were underground?

WITNESS MADENFORD: Well, I realize it is important, yes. But I don't know. It is just one of those things, I guess. I don't know.

MR. VICINELLY: When you said you stopped drilling the bottom holes due to soft conditions -- are those the words you used?

WITNESS MADENFORD: Yes.

MR. VICINELLY: Will you explain that for me?

WITNESS MADENFORD: Well, when you are drilling straight down, you can't keep the hole open. It just keeps falling shut all of the time. That is the reason.

MR. VICINELLY: During the time that you were drilling the bottom holes and after blasting a cut, would your bottom holes still be visible?

WITNESS MADENFORD: No, not really.

MR. VICINELLY: Why?

WITNESS MADENFORD: Well, it would fill up with dirt.

MR. VICINELLY: During the time that you were working there, was there any increase in the water; or did you encounter water when you were drilling the test holes?

WITNESS MADENFORD: No. There was only one spot that water dripped off of; the top. That is to say, right above our heads.

But that was in around -- let's see, that was around Number 16 or 17, because we were at a fault there. The vein was in a fault. That is to say, we only had a little seam of coal.

The rest we fired rock out of. There had been -- then, it was just stripping. But that came off at the top.

MR. VICINELLY: Were you aware of state and federal laws which require the drilling of test holes?

WITNESS MADENFORD: Not really. The only thing is what the company had told us.

MR. VICINELLY: At what point did you first start drilling test holes in all directions?

WITNESS MADENFORD: Let's see once.

MR. VICINELLY: Or what chute, if you recall?

WITNESS MADENFORD: I can't really recall. It wasn't from the beginning.

I really couldn't tell you. I would say it was in halfway, anyway.

MR. VICINELLY: Were there any unusual conditions when you started to drill your test holes?

WITNESS MADENFORD: No, not really.

Could I ask you what you mean by that, "unusual

conditions"? The face being wet or -- no.

MR. VICINELLY: What I am trying to determine is: whatever location you were at, why did you start drilling test holes at that area?

WITNESS MADENFORD: Why, we were told that we should start looking for water from old abandoned workings, slopes and old abandoned workings.

MR. VICINELLY: At that time, you were working with John Morgan and John Zanella; is that correct?

WITNESS MADENFORD: Yes -- I really couldn't tell you who I was working with at the time we started to drill ahead. I couldn't possibly tell you that. I don't know.

MR. VICINELLY: All right. You stated that you worked until you got up to about 17 chute?

WITNESS MADENFORD: 18.

MR. VICINELLY: 18 chute. At that time, you were working with Mr. Grose and Mr. Sabatino?

WITNESS MADENFORD: No. At that time, I was working with Charlie McGee and Richard Steinhart. But in between there, I had different -- there were numerous fellows in there working.

MR. VICINELLY: Mr. McGee; and who was the other one?

WITNESS MADENFORD: Steinhart; Richard Steinhart.

MR. VICINELLY: Are Mr. McGee and Mr. Steinhart miners? Under the Pennsylvania law, did they have a miner's certificate or are they apprentices, when they were working

with you?

WITNESS MADENFORD: I am sure Steinhart didn't, because he came off the motor up with me. Whether Charlie McGee has mining papers or not, I couldn't say.

MR. VICINELLY: Did they question you why you were not drilling the bottom holes?

WITNESS MADENFORD: No.

MR. VICINELLY: Those are all the questions I have.

MR. COOK: Mr. Madenford, I believe you stated that you started working in the West Skidmore section when it started up.

WITNESS MADENFORD: That is right.

MR. COOK: You worked there up through about 18 chute, inby 18 chute?

WITNESS MADENFORD: That is right.

MR. COOK: Did you have occasion to work with other crews or other men, say, in the monkey heading?

WITNESS MADENFORD: No, the only other place that I worked was when we would stop -- when we were in far enough to shart a chute off up to the monkey heading.

There were different occasions that we would take the chute and drive it up to the monkey heading.

MR. COOK: Up to the monkey heading?

WITNESS MADENFORD: Yes, and then the monkey heading crew would take over; and we would go back into the gangway then.

MR. COOK: Would you have knowledge of the drilling patterns for testing for old workings in the monkey headings or in the chutes?

WITNESS MADENFORD: Well, I don't know about the monkey heading; but in the chutes, we would drill flank holes on either side and straight ahead.

MR. COOK: You would drill flank holes on both sides in the chutes?

WITNESS MADENFORD: Yes.

MR. COOK: As you look at the West Skidmore section, as you are driving the chutes up, the flank holes to the right, what would be the reason for drilling those?

WITNESS MADENFORD: Well, they told us we could expect old sump gangways. We wouldn't necessarily hit into a breast or rob out workings.

MR. COOK: So, you were drilling both flank holes in that case?

WITNESS MADENFORD: Yes.

MR. COOK: Both sides?

WITNESS MADENFORD: Yes.

MR. COOK: Inby 18 chute -- or as you developed the gangway, did the characteristic of the coal change? I am thinking about its ability to hold the top coal.

WITNESS MADENFORD: No. No, it was still fine.

MR. COOK: Still fine?

WITNESS MADENFORD: Yes, it was still fine. The only thing is it was a little thicker; the vein got wider, a little wider.

MR. COOK: Did you have to forepole all the way through the gangway section?

WITNESS MADENFORD: No, not all over. But there were times that when we had fired rock, we forepoled, because there would be loose pieces up above; and we would forepole that, even rock.

MR. COOK: Inby 18 chute, you weren't forepoling for every cut?

WITNESS MADENFORD: Not every cut; just when it was necessary. We would test it; and if it needed it, we did it; we stopped and we forepoled it.

MR. COOK: Were you aware of any accidental shooting through into old works?

WITNESS MADENFORD: Yes, I heard about it, but I didn't work up the pitch; I mean, that is just what I heard.

MR. COOK: But you heard about shooting through into old works up in the pitch?

WITNESS MADENFORD: Yes.

MR. COOK: Would you recall about where that might have occurred?

WITNESS MADENFORD: I think it was in around Number 8.

MR. COOK: Around Number 8?

WITNESS MADENFORD: Number 8.

MR. COOK: Would you recall the circumstances under which that happened?

WITNESS MADENFORD: The way I heard it, the men drilled a cut and fired it; it didn't work. The next shift come out -- it is a six-foot cut.

The next shift come out and drilled either three or six feet further than the six-foot cut and drilled through into water.

That is the way I heard it.

MR. COOK: I understood you right. In other words, the place was drilled up and shot?

WITNESS MADENFORD: Yes, and the cut didn't work.

MR. COOK: The cut stuck; the coal didn't come out?

WITNESS MADENFORD: That is right.

MR. COOK: Was there any water that came out that time?

WITNESS MADENFORD: Oh, yes. When the next crew went up and drilled ahead and drilled into the water, the men were sent home at that time, right then.

MR. COOK: But the water didn't come through, then, until the men actually had drilled through into it?

WITNESS MADENFORD: That is right.

MR. COOK: Were they drilling in expectation of

hitting water or just drilling to shoot the cut again; do you know?

WITNESS MADENFORD: The way I heard it, after the cut was fired, it was wet. There was water; it was wet.

The next shift went up and drilled ahead. Like I said, I don't know if it was three or six feet past the six-foot cut is where they holed through into abandoned workings.

MR. COOK: Would there have been any discussions at that time about drilling test holes in that area, that you heard of?

WITNESS MADENFORD: Well, not really, no.

MR. COOK: Being a miner in that section, can you conceive of any way that you could have been drilling 26 feet in advance of the workings and not have detected that water, of the old works, rather?

WITNESS MADENFORD: You mean, could you drill 26 feet --

MR. COOK: And not have intersected the old works at that point?

WITNESS MADENFORD: I couldn't really say. I don't know.

MR. COOK: Did you know of any other areas where there could have been accidental -- or an unexpected cutting into old works?

WITNESS MADENFORD: No. No, I don't. Like I said,

I worked on the gangway. Everybody was pretty much to themselves, except if a fellow needed a tool or something, he would come down and ask for tool, and you would loan him a tool. That is about as far as I could say about that.

MR. COOK: You talked about it being difficult to drill down holes through the loose coal. You would drill so far, say, five foot, with a piece of drill steel; and you would couple on another piece of drill steel.

WITNESS MADENFORD: Yes.

MR. COOK: What was the difficulty? Was the steel just hanging up in the hole?

WITNESS MADENFORD: That is right.

MR. COOK: In other words, the drill wouldn't turn the steel?

WITNESS MADENFORD: Yes. That is right, because I tell you, I know there was guys up the pitch. In fact, one of the men that was lost up there, about a week before my layoff, he came down for a pipe wrench to take up for a hole that was straight up.

Now, they are usually easy cleaning out. But he come down and asked for a pipe wrench to loosen the steel.

MR. COOK: To back the steel out?

WITNESS MADENFORD: To back the steel out; that is right.

MR. COOK: Mr. Madenford, while you were there with

the company, what kind of safety training did you receive?

WITNESS MADENFORD: First aid, safety light; that is about the extent of it.

MR. COOK: Were you required to travel the escapeways to the surface at any time as part of your training?

WITNESS MADENFORD: One time when I was inside there. I was working on the east side, Middle Split; and we were taken through the escapeway at Skidmore, once.

MR. COOK: You may have already answered this. Maybe I missed it. But having started in the West Skidmore section -- you did start to work there.

When were you first required to start drilling test holes; do you recall?

WITNESS MADENFORD: Like I told Mr. Vicinelly, I couldn't be sure. If I would say Number 9 or 10, I couldn't be sure.

MR. COOK: But it wasn't at the beginning?

WITNESS MADENFORD: No, it wasn't.

MR. COOK: It was somewhere later on down a number of chutes?

WITNESS MADENFORD: That is right.

MR. COOK: Were there any particular instances that you might have associated with the company requiring you to drill test holes at that particular time?

WITNESS MADENFORD: No.

MR. COOK: Nothing unusual happened?

WITNESS MADENFORD: No.

MR. COOK: Did they have a test hole drilling pattern drawn up, or was it passed on to you verbally?

WITNESS MADENFORD: Verbally.

MR. COOK: Who normally did that?

WITNESS MADENFORD: Palmer Merwine, like I told Mr. Vicinelly; and I think Sam Klinger informed us of the seriousness of the water. He told us that it is a serious thing.

Them were the only two occasions that I know. From there on, it was -- we were on our own.

MR. COOK: Was there a map of the section posted on the working section?

WITNESS MADENFORD: No.

MR. COOK: Did you ever see a map of the sections you were working?

WITNESS MADENFORD: Do you mean the abandoned workings?

MR. COOK: No, sir; just the West Skidmore section.

WITNESS MADENFORD: No.

MR. COOK: The area you were working, you never saw a map of that area?

WITNESS MADENFORD: No.

MR. COOK: Did you know anything about the abandoned

workings? Did you see any drawings or maps?

WITNESS MADENFORD: I didn't see no drawings. We were told verbally about abandoned workings.

MR. COOK: Thank you, Mr. Madenford. That is all I have.

Mr. Shober?

MR. SHOBER: Mr. Madenford, did you ever have any trouble tamping holes after drilling a cut in the West Skidmore Gangway?

WITNESS MADENFORD: Excuse me; I didn't understand.

MR. SHOBER: Did you ever have any trouble tamping holes after drilling a cut in the West Skidmore Gangway?

WITNESS MADENFORD: There was times when the bottom -- the level hole, the bottom hole, at the level of the gangway, there was times that we had to go in there two or three times and take the steel off; and I would turn it around.

It seemed that it would clean a whole lot better. There was times, yes.

MR. SHOBER: Now, whenever you were working in the West Skidmore Gangway, Mr. Madenford, just what distance was that gangway advanced; like from what chute to what chute?

18 I understand you were working.

WITNESS MADENFORD: Yes, I was in at Number 18.

MR. SHOBER: Where did you start?

WITNESS MADENFORD: I started from the beginning.

MR. SHOBER: From the beginning?

WITNESS MADENFORD: Right.

MR. SHOBER: Did you ever drill any test holes in the low side bottom rib?

WITNESS MADENFORD: No.

MR. SHOBER: At any time?

WITNESS MADENFORD: No.

MR. SHOBER: How many test holes did you drill with each cut?

WITNESS MADENFORD: With each cut we drilled one straight ahead -- it varied from two to three or four feet from the bottom. We put just a little bit of pitch on to make the cleaning easier.

In the upper rib, we would drill up through on about -- well, different angles. Anywhere from a 30- or 35-degree angle to -- well, that was about it, a 30- to 35-degree angle.

MR. SHOBER: That was the pattern you were using at that time, drilling two test holes?

WITNESS MADENFORD: That is right. If we wouldn't get one test hole in, though, we would -- sometimes we would hit the bottom where the vein was thin; we would start a hole over again, until we got a hole in.

MR. SHOBER: What was the length of these test holes?

WITNESS MADENFORD: Well, that varied, too. We

drilled as high as 32 feet. When we were on the fault -- well, it was just about impossible to drill more than, sometimes, 15 feet or 16 feet.

There was places that that vein was maybe three or four inches. You just couldn't stay in the seam, the coal seam.

MR. SHOBER: All right. Thank you.

MR. COOK: Mr. Tisdale?

MR. TISDALE: The test holes, Mr. Madenford, did you drill them every cut?

WITNESS MADENFORD: Right.

MR. TISDALE: While you were drilling your test holes, at any time, was the section foreman there observing you drilling?

WITNESS MADENFORD: No, not always; at times. It happened when he was making his rounds; he would be there. There was times that he wasn't.

MR. TISDALE: How often did you see the section foreman during your working day?

WITNESS MADENFORD: Mostly, twice a day.

MR. TISDALE: Did he ever examine the place after you drilled the test holes?

WITNESS MADENFORD: He usually took our word for it. By "examining," do you mean measuring them?

MR. TISDALE: Measuring them, seeing that they were

there?

WITNESS MADENFORD: Not that I remember, measuring them; seeing that they were there.

MR. TISDALE: But there wasn't any bottom hole for him to see?

WITNESS MADENFORD: No.

MR. TISDALE: Did he make a comment on that?

WITNESS MADENFORD: No.

MR. TISDALE: Do you think that he knew you were not drilling the bottom holes?

WITNESS MADENFORD: Well, I am pretty certain he knew we weren't.

MR. TISDALE: Did any federal mine inspector visit your place while you were working in the gangway?

WITNESS MADENFORD: Yes.

MR. TISDALE: Did he observe you drilling test holes?

WITNESS MADENFORD: I couldn't really say if he was in at the very time that we were drilling them. I couldn't honestly say.

MR. TISDALE: Did he discuss test holes with you?

WITNESS MADENFORD: Not really.

MR. TISDALE: I hope I won't repeat what somebody else has asked you. Were you trained in the use of the self rescuer?

WITNESS MADENFORD: Oh, yes. Yes, we were. I am

sorry; that is one I forgot, the self rescuer. We were, right.

MR. TISDALE: Do you have any knowledge of the test hole drilling pattern by miners on the other shift?

WITNESS MADENFORD: No, I wouldn't. The only thing is, what we would do, if the one shift didn't have the holes drilled ahead, we would take a piece of chalk and we would write on, "27 feet," put an arrow to it, "25 feet;" or at times, I would talk with the other shift and tell them that we didn't get the holes finished, that they would have to finish them before they fired them.

MR. TISDALE: Was the other shift drilling down holes?

WITNESS MADENFORD: My personal opinion would be "no."

MR. TISDALE: You didn't see any?

WITNESS MADENFORD: We never discussed it.

MR. TISDALE: Did you ever see any chalk marks indicating that they were?

WITNESS MADENFORD: No, definitely not.

MR. TISDALE: They never told you that, "We didn't get the down hole finished this shift"?

WITNESS MADENFORD: No.

MR. TISDALE: I have no more questions.

MR. COOK: Mr. Phares?

MR. PHARES: Were there adequate supplies for

drilling test holes on hand in the section at all times?

WITNESS MADENFORD: Yes, I would say.

MR. PHARES: Just one last general question. Is there anything else that you would like to tell the panel that would aid the panel in its investigation?

WITNESS MADENFORD: I don't really think so.

MR. PHARES: I have no further questions.

MR. COOK: Mr. Strain?

MR. STRAIN: Mr. Madenford, I am a little confused about which holes you are referring to.

When you said that the steel stuck, was that in the top holes or the straight ahead holes?

WITNESS MADENFORD: Well, they would stick in straight ahead holes or up the pitch at times. There were times that we would have them. If you didn't just keep cleaning, they would get stuck at times.

I know we had to use a pipe wrench sometimes to turn them out.

MR. STRAIN: Did they get stuck in the bottom holes as well?

WITNESS MADENFORD: Well, we didn't drill no bottom holes.

MR. STRAIN: You didn't attempt the bottom holes at all?

WITNESS MADENFORD: No.

MR. STRAIN: All right. This is from the beginning of Number 1 chute all the way to Number 18 chute?

WITNESS MADENFORD: That is right.

MR. STRAIN: Was this during the time that you were working with Philip Sabatino?

WITNESS MADENFORD: Never. We never drilled them -- I am sorry; I didn't --

MR. STRAIN: Were you ever working with Philip Sabatino in the gangway?

WITNESS MADENFORD: I worked with Philip between Number 10 or Number 11 chute.

MR. STRAIN: All right. When you were working with Philip, who did the drilling?

WITNESS MADENFORD: We would -- one fellow would drill one time -- it depended on what the other guy was doing at the time. I mean, there was no set pattern of who would drill.

MR. STRAIN: Did you yourself do the drilling?

WITNESS MADENFORD: Oh, yes.

MR. STRAIN: You said that you had difficulty with the bottom holes. What difficulty did you have with the bottom holes if you never started to drill them?

WITNESS MADENFORD: The only difficulty we had with the bottom holes was the bottom holes going in level that we drilled. That is the only bottom holes that I am talking about,

that we had difficulty with, in firing the cut that we had to clean out.

We didn't drill none down.

MR. STRAIN: You didn't drill any test holes in a downward direction?

WITNESS MADENFORD: No.

MR. STRAIN: Did this include the time that you were working with Mr. McGee?

WITNESS MADENFORD: That is right.

MR. STRAIN: When you were working with Mr. McGee, who would do the drilling?

WITNESS MADENFORD: Well, there again, it varied. When we drilled ahead, one fellow might drill in six feet, and we would put a steel on, and the other guy would -- like I said, there was no set pattern on the drilling.

MR. STRAIN: Would there ever be a time when the entire hole would be drilled that you wouldn't be present?

WITNESS MADENFORD: No, not really.

MR. STRAIN: So, you would have participated in just about every hole that was drilled?

WITNESS MADENFORD: There was times maybe I didn't work. I mean, I wasn't there every day. But the times that we were drilling ahead, most of the times I was there.

MR. STRAIN: Did this drilling go on every day?

WITNESS MADENFORD: Yes, whenever the occasion arose

that we had a cut cleaned up, had the pan and chain on, and had our timber in, and we started out.

That was the first thing we did, drill ahead.

MR. STRAIN: All right. Those are all of my questions. Thank you.

MR. COOK: We have some questions here.

Who was your section foreman, Mr. Madenford?

WITNESS MADENFORD: Palmer Merwine was, except for days that he would go home early; then, Mr. Dunkle -- Nick Duckle -- would.

MR. COOK: Did he enter the section first and check it before you went to work?

WITNESS MADENFORD: Yes, he made a pre-shift examination.

MR. COOK: About how often did he get around when you were working a shift during a day?

WITNESS MADENFORD: Mr. Merwine would, then, come up in the morning and maybe around 12:00, again.

MR. COOK: Did mine management instruct you to drill a minimum distance in advance of the working face?

WITNESS MADENFORD: Well, he did say that he liked us to drill 25 feet. He didn't want us to drill much less than 25 feet.

MR. COOK: Did you ever express the desire to drill holes deeper than that?

WITNESS MADENFORD: Well, there was times we did do that on our own; we would drill maybe 30 feet, 32 feet.

MR. COOK: Did you ever work with Mr. Fishburn in the gangway?

WITNESS MADENFORD: Yes.

MR. COOK: He was one of the people you worked with?

WITNESS MADENFORD: That is right.

MR. COOK: We may have asked this question before, and I may have forgotten.

But, did you have any knowledge of the miners working in the monkey way drilling down holes?

WITNESS MADENFORD: No, I didn't. I wasn't up in there. I couldn't say.

MR. COOK: Would you mind telling the panel the circumstances under which you were laid off?

WITNESS MADENFORD: They never explained it to me. I just got a slip of paper that -- I guess you would call them the bosses. They had a meeting and decided that the company no longer could afford -- I can't give you the definite words.

But I have it at home. That was it. I mean, they never stated no reason.

MR. COOK: They never stated a reason?

WITNESS MADENFORD: No.

MR. COOK: Verbally or in writing?

WITNESS MADENFORD: No. Mr. Richter did, though,

about a week before give a speech. I don't really know what it was -- I mean, I couldn't just exactly explain what everything was about.

Something about older men. I don't know what the full contents of it was.

MR. COOK: Are there any further questions?

MR. STRAIN: I have one more question.

When Mr. Klinger talked to you about the dangers of the water that mining encountered, did he ever mention that you might be encountering water below where you were working, below the gangway?

WITNESS MADENFORD: Yes, I am pretty sure he did. I believe so.

MR. STRAIN: Did he instruct you to drill for water down below the gangway?

WITNESS MADENFORD: I couldn't say if he -- I know definitely Palmer Merwine did. I can't remember if Sam mentioned about it or not. I couldn't say.

MR. STRAIN: All right. That is all I have.

MR. COOK: Just one more question. Would you mind telling the panel your age, please, Mr. Madenford?

WITNESS MADENFORD: I am 49.

MR. COOK: 49?

WITNESS MADENFORD: Yes, sir.

MR. COOK: Thank you very much, Mr. Madenford.

MR. VICINELLY: Thank you.

(Witness excused.)

MR. COOK: We would like to go a little later this afternoon. Rather than break for lunch right now, we would like to still question one or two more witnesses before we break for lunch.

Would there be any reason that anyone couldn't do that?

(No response.)

MR. COOK: All right. At this time we would like to have Mr. Alvin Lubold, please.

Whereupon,

ALVIN LUBOLD

having been duly sworn, testified as follows:

MR. PHARES: Would you please state your name?

WITNESS LUBOLD: My name is Alvin Lubold.

MR. PHARES: Would you spell your last name, please?

WITNESS LUBOLD: L-u-b-o-l-d.

MR. PHARES: What is your address, Mr. Lubold?

WITNESS LUBOLD: Box 1, Muir, Pennsylvania.

MR. PHARES: Mr. Lubold, before we begin the questioning, I want you to understand that this is a formal investigatory hearing.

A written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question. And you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS LUBOLD: I do.

MR. PHARES: Thank you.

MR. COOK: Mr. Lubold, where are you presently employed?

WITNESS LUBOLD: No, I am not.

MR. COOK: Did you work at Porter Tunnel Mine?

WITNESS LUBOLD: I did.

MR. COOK: What date did you start working there?

WITNESS LUBOLD: Oh, Easter of 1975 -- Easter Monday of 1975.

MR. COOK: 1975?

WITNESS LUBOLD: Yes.

MR. COOK: How long did you work there?

WITNESS LUBOLD: Until January 28th, 1977.

MR. COOK: What areas of the Porter Tunnel Mine did you work in?

WITNESS LUBOLD: Skidmore. I started in the Top Split in the gangway. Then I went timbering. Then I was transferred into the Skidmore.

MR. COOK: Had the Skidmore section already been started when you were transferred there?

WITNESS LUBOLD: It was.

MR. COOK: About how far in was the gangway at that time, the number of the chutes?

WITNESS LUBOLD: I think I started in chutes and headings with Mr. Moyer -- John Moyer -- the man that was drowned up there in 6 chute. We were in chutes and headings.

During that time, we were sent down the gangway, to labor in the gangway at the same time.

MR. COOK: So, you were working up on the pitch?

WITNESS LUBOLD: On the monkey, yes.

MR. COOK: On the monkey?

WITNESS LUBOLD: Yes.

MR. COOK: And some in the gangway?

WITNESS LUBOLD: Some in the gangway, yes.

MR. COOK: Somewhere around Number 6 chute --

WITNESS LUBOLD: We started, yes.

MR. COOK: Now, when you started to work in the West Skidmore section, were you drilling test holes at that time?

WITNESS LUBOLD: We were drilling up, and we were drilling in.

MR. COOK: All right. So, you were working in the chutes, and you were drilling in advance of the working face and to the --

WITNESS LUBOLD: I am talking about the monkey, now.

MR. COOK: You are talking about the monkey?

WITNESS LUBOLD: Yes.

MR. COOK: All right, sir. In the monkey, you were drilling straight ahead and the flank hole to the right?

WITNESS LUBOLD: Yes.

MR. COOK: Or the outside rib?

WITNESS LUBOLD: Yes.

MR. COOK: That was the drilling pattern when you started working in that section?

WITNESS LUBOLD: Yes.

MR. COOK: Were these drilling instructions given to you verbally, or was there a map shown of the drilling pattern? How did you receive --

WITNESS LUBOLD: I never seen a map.

MR. COOK: You never saw a map of this?

WITNESS LUBOLD: I never seen a map that was shown to me.

MR. COOK: Who did you work with in the monkey airway?

WITNESS LUBOLD: John Moyer.

MR. COOK: Anyone else?

WITNESS LUBOLD: Timmy Grose.

MR. COOK: Your last shift that you worked in that area, how far was the monkey --

WITNESS LUBOLD: 18.

MR. COOK: At Number 18?

WITNESS LUBOLD: Yes.

MR. COOK: Had you encountered any unusual conditions in the last two or three months while driving the monkey airway?

WITNESS LUBOLD: It got wetter than the devil.

MR. COOK: Where was the water coming from, primarily?

WITNESS LUBOLD: From the high rib.

MR. COOK: From the high rib?

WITNESS LUBOLD: Yes.

MR. COOK: Drippers?

WITNESS LUBOLD: When you drilled and pulled the drill, she used to come out there pretty good; then she would settle down.

If it clogged up in the back, I don't know, because

I couldn't see that in there.

MR. COOK: How far were you drilling your test holes?

WITNESS LUBOLD: 25 to 28 foot.

MR. COOK: While you were working there, were there any accidental firings through to old works, that you were aware of?

WITNESS LUBOLD: Yes.

MR. COOK: Where would they have occurred?

WITNESS LUBOLD: Number 8 chute.

MR. COOK: Number 8 chute?

WITNESS LUBOLD: Yes.

MR. COOK: Could you explain your knowledge of what happened there?

WITNESS LUBOLD: Well, they were supposed to hit the water at Number 10. It never happened. It happened at 8, where a fellow by the name of Mace -- he is a boss at the Lucas Coal Company, now. They drilled a cut that day, and it didn't work.

And there is a miner -- pardon me; a hell of a good miner -- by the name of Smokey Reinoehl; he went up and drilled ahead. At 12 foot he hit the water.

MR. COOK: So, there was a shot put off at Number 8 chute?

WITNESS LUBOLD: On the night shift; and it didn't work.

MR. COOK: And it didn't work. They went back in and drilled into water?

WITNESS LUBOLD: Yes. That was in April.

MR. COOK: In April?

WITNESS LUBOLD: Yes.

MR. COOK: Was there a good bit of water drained off at that time?

WITNESS LUBOLD: Yes, there was.

MR. COOK: Was that section idle for a period of time?

WITNESS LUBOLD: Yes, it was.

MR. COOK: About how long?

WITNESS LUBOLD: Oh, anywhere from two to three weeks, as far as I know; you know, as far as I can recollect.

MR. COOK: As other chutes were developed beyond Number 8 -- 9, 10, 11, and so on -- were there any other chutes that accidentally cut into old works?

WITNESS LUBOLD: Number 12; it was coming down pretty lively, 12 and 13.

MR. COOK: In other words, you mean water was coming in?

WITNESS LUBOLD: Yes, there it was.

MR. COOK: Was there an accidental cutting into that, or was it just drilling through and draining off?

WITNESS LUBOLD: I don't know if it was accidental,

because I didn't work up there. I worked in chutes and headings.

MR. COOK: I see.

Did you notice in the last few weeks that in the monkey airway that the coal had become harder, softer; was there any difference?

WITNESS LUBOLD: My view of talking about it -- you know what I mean -- the only thing I ever learned was "sheety." Do you understand what I mean by that?

It was soft and sheety.

MR. COOK: And wanted to sort of run?

WITNESS LUBOLD: Yes, I would say it run, because at 16 -- at 16, I was day shift. We were changing over from each other.

And at 16, instead of timbering, they went to working two cuts -- fired two cuts instead of putting timbering up. And it run up about 30 foot.

MR. COOK: Were you forepoling a good bit at the time?

WITNESS LUBOLD: At the monkey we were forepoling all the way. You had to forepole, because she fell out on top of you.

MR. COOK: Did you have occasion to go down in the gangway?

WITNESS LUBOLD: Yes, we were sent down there a few

times to work with the gangway men, Mr. Sabatino and Mr. Madenford.

MR. COOK: So, you worked down there on occasion --

WITNESS LUBOLD: Yes, we did.

MR. COOK: -- for one reason or another.

How were you drilling test holes in that?

WITNESS LUBOLD: The only way I knew they drove test holes was they were drilling up and drilling in.

MR. COOK: Did the coal in the gangway have a tendancy to want to run also?

WITNESS LUBOLD: At times, yes.

MR. COOK: What kind of safety training did you receive from the company, Mr. Lubold?

WITNESS LUBOLD: If I may, may I come forward and show these to you?

(Witness Lubold approaches bench.)

(Mr. Cook perusing documents.)

MR. COOK: I would like to read into the record what Mr. Lubold has presented to us. They are certificates from the United States Department of the Interior, Mining Enforcement and Safety Administration, to certify that Mr. Alvin Lubold has had training in the flame safety lamp, in roof and rib control, and the use of the self rescuer.

Who conducted that training, Mr. Lubold?

WITNESS LUBOLD: I don't remember the names of the

persons that was there giving them.

It was during the time, before your shift ended, you come out, before you took a shower to come home.

MR. COOK: They gave you instructions on the outside?

WITNESS LUBOLD: Yes.

MR. COOK: Did you ever have occasions to travel escapeways to the surface?

WITNESS LUBOLD: On the second outlet, which I never knew where it was -- the only occasion I had to find out where it was was when another laborer that I was working with, by the name of Luther Smith, we were given 50 pounds of nails and each with a hatchet; and we had to nail the steps down to the second outlet.

And that was from the Middle Split up to the surface.

MR. COOK: The Middle Split?

WITNESS LUBOLD: Yes.

MR. COOK: How often did the section foreman visit your working place?

WITNESS LUBOLD: Oh, he come down in the mornings. Merwine, he come there quite often. Rupp -- maybe you know him; I don't know what his name is; I just called him Rupp -- which makes no difference to me anyhow -- he come there quite often.

The one, Dunkle, he releived Merwine on occasions. He would come up there every once in awhile, you know what I

mean. Some days you didn't see him in the afternoon.

MR. COOK: Did they talk to you about drilling test holes?

WITNESS LUBOLD: Merwine did.

MR. COOK: What did they normally discuss with you like this?

WITNESS LUBOLD: Oh, how you were drilling and make sure you were drilling the same depth.

When Merwine told us, we used to drill it and put plugs in the depth that we put it in, if you could find equipment.

MR. COOK: Did he check the depths of the holes? Did the foreman occasionally check the depths of the holes?

WITNESS LUBOLD: No, he just took your word.

MR. COOK: Just took your word?

WITNESS LUBOLD: Yes.

MR. COOK: Was the foreman aware that you were not drilling down holes or in the low rib side?

WITNESS LUBOLD: No, nobody ever told us to drill down.

MR. COOK: No one ever told you?

WITNESS LUBOLD: Not in the monkey.

MR. COOK: Was it discussed at all?

WITNESS LUBOLD: No.

MR. COOK: Generally speaking, in the monkey airway,

is it generally one or two cuts behind the gangway?

WITNESS LUBOLD: Oh, the gangway moved faster than the monkey did. They had conveyor lines, because we had to take it and load it in wheelbarrows, push it out, and put it in the chute, put it in the wheelbarrow, and shove it up again.

MR. COOK: So, really, the gangway was always some distance in advance of the monkey way?

WITNESS LUBOLD: Yes.

MR. COOK: For the moment, that is all I have, Mr. Lubold.

Mr. Vincinelly?

MR. VICINELLY: This Number 8 where the shot was fired through, could you explain that to me?

WITNESS LUBOLD: Evidently, when they tamped it, the water -- and the face got wet and the powder got wet. Evidently, your cap went off -- or your powder didn't, due to dampness; do you know what I mean?

That is the only way I can explain it to you.

MR. VICINELLY: Did any shots go off at all that you know of?

WITNESS LUBOLD: Some.

MR. VICINELLY: Then, you stated they came in and drilled the 12-foot test hole?

WITNESS LUBOLD: The night shift did that. The man

that drilled was -- his first name -- I can't tell you his first name; I can tell you the nickname: Smokey Reincohl.

MR. VICINELLY: When they drilled that through --

WITNESS LUBOLD: That is when the water came.

MR. VICINELLY: Was there a lot of water? Was it an unusual occurrence? Or were you just tapping the water up?

WITNESS LUBOLD: Why, we had to clean the gangway out when we went back to work. It washed the stuff out the chute and down over.

MR. VICINELLY: Do you know what size hole, diameter hole, that was drilled?

WITNESS LUBOLD: I don't know. The only thing I can tell you is: they used an inch-and-a-quarter bit to drill with. That is the only thing I can tell you.

MR. VICINELLY: Was that inch-and-a-quarter bit used to drill a hole through to tap the water off?

WITNESS LUBOLD: Yes.

MR. VICINELLY: Was there only one hole put through?

WITNESS LUBOLD: I don't know. I couldn't tell you. I wasn't up.

MR. VICINELLY: Do you know how long the water ran?

WITNESS LUBOLD: Oh, for about two or three weeks.

MR. VICINELLY: Was there anybody working up in that area during the time that the water was being tapped off?

WITNESS LUBOLD: I don't know.

MR. VICINELLY: If I understood you correctly, you stated that you started to drill test holes at Number 6 chute.

WITNESS LUBOLD: Right. We were drilling -- in the monkey, we were drilling up, and we were drilling straight in.

MR. VICINELLY: Do you have any knowledge whether they drilled the holes in any other place at that time?

WITNESS LUBOLD: They weren't supposed to. They weren't supposed to hit -- until you hit Number 10 chute -- the water.

MR. VICINELLY: But that started at Number 6?

WITNESS LUBOLD: They weren't supposed to hit the water until they hit Number 10 chute, which they hit it at Number 8.

MR. VICINELLY: But the holes were started at Number 6?

WITNESS LUBOLD: Yes.

MR. VICINELLY: Do you know if they were drilling test holes in Number 8 chute prior to drilling the 12-foot hole that went through into the water?

WITNESS LUBOLD: I don't know. I can't tell you.

MR. VINCINELLY: Do you know who was working in that area?

WITNESS LUBOLD: It was Reinoehl -- he was the lead miner -- and Young Brown -- Calvin Brown -- and the other guy, I know him to see him, but I can't tell you his name.

MR. VICINELLY: Who were you working with in the monkey?

WITNESS LUBOLD: John Moyer and Timmy Grose.

MR. VICINELLY: When you started to drill the holes in Number 6 chute, who instructed you to drill holes?

WITNESS LUBOLD: Merwine.

MR. VICINELLY: Could you tell me how he instructed you to drill the test holes?

WITNESS LUBOLD: To drill up and to drill straight in.

MR. VICINELLY: How long have you worked in the anthracite mines?

WITNESS LUBOLD: Oh, since I was 18 years old, off and on.

MR. VICINELLY: You spent some time in the coal mines, didn't you?

WITNESS LUBOLD: A little bit.

MR. VICINELLY: Well, were you concerned that they weren't drilling the bottom holes with the knowledge that you had of mining?

WITNESS LUBOLD: Well, let's put it this way, sir. I don't mind dying; I ain't afraid of dying, but I hate to rush it.

MR. VICINELLY: Well, did you question anyone about drilling the bottom holes?

WITNESS LUBOLD: No, I didn't.

MR. VICINELLY: You don't mind -- would you repeat that again; I didn't catch all of that.

WITNESS LUBOLD: I said: I ain't afraid of dying, but I don't like to rush it.

MR. VICINELLY: Well, don't you think you were rushing it when you didn't question why --

WITNESS LUBOLD: Yes.

MR. VICINELLY: -- you didn't drill the bottom holes?

WITNESS LUBOLD: No. We weren't told to drill bottom holes.

MR. VICINELLY: But, you had enough knowledge about mining, and you did not question it?

WITNESS LUBOLD: We never forced the issue of drilling the bottom.

MR. VICINELLY: You have never forced the issue to drill the bottom holes?

WITNESS LUBOLD: No, I was not the lead miner, Mr. Vicinelly.

MR. VICINELLY: Who was the lead miner?

WITNESS LUBOLD: Mr. Moyer.

MR. VICINELLY: I have no other questions.

MR. COOK: Mr. Shober?

MR. SHOBER: I have no questions.

MR. COOK: Mr. Strain?

MR. STRAIN: Yes.

Mr. Lubold, did Mr. Merwine or anyone else from the company tell you anything about abandoned workings in the area?

WITNESS LUBOLD: I knew it.

MR. STRAIN: How did you know it?

WITNESS LUBOLD: My father; he is a retired coal miner, too.

MR. STRAIN: What did he tell you?

WITNESS LUBOLD: He told me if they would ever hit the water -- that is, in the old hole -- that it is going to be good night for everybody.

MR. STRAIN: Have you told this to anybody else?

WITNESS LUBOLD: Right.

MR. STRAIN: To whom did you tell it?

WITNESS LUBOLD: I told the fellows I worked with everything.

MR. STRAIN: That being Mr. Moyer and Mr. Grose?

WITNESS LUBOLD: Right.

MR. STRAIN: Did you tell any of the section foremen?

WITNESS LUBOLD: I told them if they ever hit the water, somebody was going to get the wettest bath they ever had.

MR. STRAIN: Who were to company officials that you told this to?

WITNESS LUBOLD: Oh, I told some of the bosses. In fact -- in fact, the Friday that I was laid off, the boss told us, Mr. Merwine, if they ever hit the water, he don't know if they are going to be able to control it.

And that was told to us as we were sitting on the bench ready to leave at quitting time.

MR. STRAIN: Mr. Merwine said this?

WITNESS LUBOLD: Yes.

MR. STRAIN: Were they expecting water below them?

WITNESS LUBOLD: I don't know.

MR. STRAIN: No one told you how far they --

WITNESS LUBOLD: Your map shows, on the old workings, that shows the hole, but it don't show whether there were any gangways or anything driven off.

MR. STRAIN: When did you look at the map?

WITNESS LUBOLD: What?

MR. STRAIN: When did you look at the map?

WITNESS LUBOLD: Well, my dad had one when he was bootlegging over there, too.

MR. STRAIN: Where was he working?

WITNESS LUBOLD: Coon's Hollow.

MR. STRAIN: Do you know the name of the mine?

WITNESS LUBOLD: No, I don't. I was just over what they called "The Gravel Pit," up at the top of the mountain.

MR. STRAIN: Did you have any knowledge of the

location of the Bush Mine?

WITNESS LUBOLD: No. I knew there was a Bush Mine there. The man by the name of Ira Bush, his brother had the mine inside.

Before you come to the Bush Mine, there was a Ray Heberling -- his right name I can't tell you, but it is a Weaver.

That was the first hole they hit first.

Then, it would be the Bush Mine, which evidently hit -- now, there is another hole out through, which is the Miller hole. If that was connected up to the Bush hole, I don't know. I don't know.

MR. STRAIN: Where did your father work?

WITNESS LUBOLD: What?

MR. STRAIN: Had you father worked in any one of those three mines?

WITNESS LUBOLD: Him and a guy by the name of Warfield had their own. They went down; and when they drilled the bottom come out, and they quit then. They blew the bottom out.

MR. STRAIN: Was this further to the west of those three mines, or was it in between any of them?

WITNESS LUBOLD: I don't know. He never told me. He just told me to get out before they carried me out.

MR. STRAIN: Well, what did his map show?

WITNESS LUBOLD: There is nothing driven off of it. It is like the lease they get; do you know what I mean?

MR. STRAIN: Did he ever show you on that map where he had worked?

WITNESS LUBOLD: Where what?

MR. STRAIN: Did he ever show you on that map where he had worked?

WITNESS LUBOLD: No.

MR. STRAIN: Did he ever tell you where he got the map from?

WITNESS LUBOLD: No. My dad is very quiet. If we want to know something, we have got to find out for ourselves, except when he gets mad. Then he tells us what he thinks of us.

MR. STRAIN: Was this map an engineering map, or was it just a sketch?

WITNESS LUBOLD: Just a lease map.

MR. STRAIN: A lease map?

WITNESS LUBOLD: Yes. That is all.

MR. STRAIN: Did it say: leased from whom? Did it say what company was involved?

WITNESS LUBOLD: No, he didn't. It was back in the '40's.

MR. STRAIN: I may have asked this before. I just want to get it clear.

Did anybody discuss -- did you discuss with any of your workers or did anyone else discuss the possibility of these old workings extending below the monkey and below the gangway?

WITNESS LUBOLD: Nobody knew.

MR. STRAIN: Nobody knew?

WITNESS LUBOLD: Nobody knew. In fact, this is the first time I ever heard of water coming up from the bottom. I heard breaking in from the base and breaking in from the upper rib, but I never heard of water breaking in from the bottom, never.

MR. STRAIN: Did anyone discuss how long the test holes should be?

WITNESS LUBOLD: They told us 25 to 28 foot.

MR. STRAIN: Did you think that was enough?

WITNESS LUBOLD: No. No, I don't.

Let me ask you a question. What advantage do you have -- what type of an escape would you have in fine coal, if you drilled 20, 25, 28 foot--and the water pushes in fine coal -- how much of a chance would you have for escaping?

Water can go faster than I can run, mind you.

MR. STRAIN: Did you suggest to anyone that they should be longer holes?

WITNESS LUBOLD: Just like I said prior to this: where are you getting the steel from to drill?

MR. STAIN: Do you mean, there wasn't enough steel?

WITNESS LUBOLD: I am not getting smart, understand me. I am not getting smart. I don't believe in talking to somebody smarter than I think they are for me.

But, if you don't have the equipment, you can't work, can you?

MR. STRAIN: Your steels weren't long enough to go -- how long did you go with the steels that you had?

WITNESS LUBOLD: 25 to 28 foot.

MR. STRAIN: What kind of steels did you have?

WITNESS LUBOLD: The spirals.

MR. STRAIN: Were they in sections?

WITNESS LUBOLD: Yes. You have got four-foot sections, and you have got six-foot sections.

MR. STRAIN: What were the steels that you had?

WITNESS LUBOLD: Six- and four-foot sections.

MR. STRAIN: How many sixes?

WITNESS LUBOLD: Oh, it was 28 foot altogether.

MR. STRAIN: So, when you put them all together, 28 feet --

WITNESS LUBOLD: 28 foot; that is all, yes.

MR. STRAIN: Were there any more steels down in the gangway chute -- gangway airways?

WITNESS LUBOLD: They claimed that they couldn't get them.

You can't drill with a bent steel.

Mr. Vicinelly, you must acknowledge that, right?

MR. VICINELLY: Yes.

WITNESS LUBOLD: If you drill with a bent steel, you might as well go out someplace and put it against an iron bin someplace or else get your head shook off, because it is going to be jambed all the time, is it not, Mr. Vicinelly?

MR. VICINELLY: Correct.

WITNESS LUBOLD: It will not clean your hole. It is going to wedge for you all the time. So, why try to drill with crooked steels?

MR. STRAIN: Did you complain about not having enough steels?

WITNESS LUBOLD: We did lots of times.

MR. STRAIN: To whom did you complain?

WITNESS LUBOLD: The bosses.

MR. STRAIN: That would be whom?

WITNESS LUBOLD: We talked to Mr. Klinger of getting steels, and they claimed we should bring the other ones out and get them straightened.

If you take them out and get them straightened, how are you going to use them?

MR. STRAIN: All right. Did Mr. Moyer and Mr. Grose also make the same complaint?

WITNESS LUBOLD: Mr. Moyer used to raise Cain about

that.

MR. STRAIN: Did you have any difficulty in drilling up the pitch at any time?

WITNESS LUBOLD: At what?

MR. STRAIN: When you were drilling the upper flank holes, did you have any difficulty drilling those?

WITNESS LUBOLD: No. If if wasn't wet, you could drill beautiful. But if it was wet, you had problems of it jambing.

MR. STRAIN: In what chutes was it wet, if you can remember?

WITNESS LUBOLD: Well, this started, I would say, about -- we never worked above the monkey; you understand me?

MR. STRAIN: Right.

WITNESS LUBOLD: We drove monkey in, and we worked in chutes. But we were informed that starting from the gangway up, they always drilled two or three cuts prior to starting the chute up, so when you come in there -- you know what I mean -- if we drilled a monkey in, we went two or three cuts past where the chute come up; and that was timbered on account of it running. Then we drove the chute up.

Mr. Merwine had no idea of drilling ahead, due to the fact that that monkey was ahead of the chute.

MR. STRAIN: The monkey was ahead of the chute?

WITNESS LUBOLD: Yes.

MR. STRAIN: Did you still drill up?

(No response.)

MR. STRAIN: You still drilled up, didn't you?

WITNESS LUBOLD: No.

MR. STRAIN: You didn't drill up?

WITNESS LUBOLD: No.

MR. STRAIN: You just drilled ahead?

WITNESS LUBOLD: Right.

MR. STRAIN: So, you only drilled one test hole?

WITNESS LUBOLD: For the chutes, we never drilled a test hole; we never drilled flank holes.

MR. STRAIN: So, the only time you did drill test holes was when you were in the monkey?

WITNESS LUBOLD: In the monkey, yes. We drilled one flank hole and straight in.

MR. STRAIN: Did you ever drill into any water?

WITNESS LUBOLD: Occasionally, it run like I spoke to Mr. Phares there.

Occasionally, when you drilled and pulled the steel out, there was water coming. Now, as I quoted prior to this, did something block it behind, or was it just a water pocket back there? We don't know. We can't see in.

MR. STRAIN: Do you remember where you encountered water?

WITNESS LUBOLD: 16.

MR. STRAIN: Any other place?

WITNESS LUBOLD: That is all.

MR. STRAIN: How far up did you drive the chutes?

WITNESS LUBOLD: Some places -- it varied. Some of the chutes were higher than the others. But, they tried to keep them at 40 or 45 foot.

MR. STRAIN: Well, how high up were you personally involved in driving the chute?

WITNESS LUBOLD: Up to the monkey.

MR. STRAIN: Up to the monkey?

WITNESS LUBOLD: Yes.

MR. STRAIN: As you drove the chutes from the gangway up to the monkey --

WITNESS LUBOLD: Right.

MR. STRAIN: When you drove the chutes from the gangway up to the monkey, you weren't drilling test holes?

WITNESS LUBOLD: No.

MR. STRAIN: Because the monkey was already --

WITNESS LUBOLD: The monkey was already in.

MR. STRAIN: Already beyond the area?

WITNESS LUBOLD: Right.

MR. STRAIN: Now, the test holes that you did drill, those in the monkey, you drilled one up and you drilled some ahead.

WITNESS LUBOLD: We drilled one ahead and one flank

hole to the right, of the upper rib.

MR. STRAIN: You did have some difficulty in drilling the upper rib at Number 16?

WITNESS LUBOLD: Yes.

MR. STRAIN: Any other place that you had difficulty?

WITNESS LUBOLD: That is all.

MR. STRAIN: That is where you encountered the wetness?

WITNESS LUBOLD: Right.

MR. STRAIN: You kept on mining until 18. Is that Number 18 chute?

WITNESS LUBOLD: 18 I was laid off, yes. Thank God. No prejudice whatsoever about it. I am thankful they laid me off or I would be pushing up dandelion flowers, too.

MR. STRAIN: How far did you work in the monkey? What was the furthest extent of the monkey then?

WITNESS LUBOLD: What do you mean?

MR. STRAIN: Well, how far was the monkey heading driven?

WITNESS LUBOLD: Into 18 chute.

MR. STRAIN: It was driven into 18 chute?

WITNESS LUBOLD: When I got laid off, yes.

MR. STRAIN: Did you drive the chute between the gangway and monkey at Number 18?

WITNESS LUBOLD: Yes, we did.

MR. STRAIN: How about 17?

WITNESS LUBOLD: Oh, 17 was running. 16 was running, too.

MR. STRAIN: Did you drive the monkey from 15 to 17?

WITNESS LUBOLD: Yes.

MR. STRAIN: Even though it was running?

WITNESS LUBOLD: Yes -- I am not talking about water. I am talking about the coal running, you know what I mean.

As I quoted before, at 15, when they were supposed to timber, instead of putting in timber and taking another cut, they took two cuts out without putting timber in. I quoted that prior to this, Mr. Vicinelly, did I not?

MR. VICINELLY: Correct.

MR. STRAIN: All right. Did they timber after the coal started to run?

WITNESS LUBOLD: We had to timber.

MR. STRAIN: And you timbered all the way through to 17?

WITNESS LUBOLD: Right, double timbered.

MR. STRAIN: Was there any place on the monkey that you weren't able to drive it in?

WITNESS LUBOLD: Nope. We always managed to get through.

MR. STRAIN: So, you went all the way to 18?

WITNESS LUBOLD: Yes, when I was laid off.

MR. STRAIN: Did you know if any of the other shifts were drilling test holes?

WITNESS LUBOLD: I don't know. I don't know.

MR. STRAIN: In other words, you didn't see any indication of test holes in the monkey heading?

WITNESS LUBOLD: No. If I would be telling you we drilled a hole ahead and they didn't drill, they just drilled and fired, I would be telling you a lie.

I am not here to tell a lie. I am here to tell you the truth. And to tell you a lie I won't.

MR. STRAIN: So, there is no time that you went in the monkey heading where the previous shift had drilled some of the test holes -- any test holes were --

WITNESS LUBOLD: When we went in the morning to work day shift, we had a pile of coal. We shoveled up the pile. We timbered. We drilled ahead, and we drilled and fired. Sometimes we cleaned half the cut up; sometimes we didn't get half of it cleaned up, which we left for the night shift, which is enough for anybody to do.

MR. STRAIN: Those are all of my questions.

MR. COOK: Mr. Tisdale?

MR. TISDALE: I only have one or two questions, Mr. Lubold.

We have received testimony here that some of the

fellows were drilling test holes in the lower side rib. Did you ever see any?

WITNESS LUBOLD: No, I never seen none. I never seen any test holes in the lower side rib, because -- I will tell you why.

In the monkey if you had tried to drill rib holes in the lower rib, you would have never got through, because you would have hit rock.

MR. TISDALE: I have a couple of questions here from the audience.

One of them is -- I think you answered it; but just to be sure, I will ask you.

Were the men sent home on the day the water was hit near chute Number 8?

WITNESS LUBOLD: Yes.

MR. TISDALE: The next one is: who conducted the roof and rib control training that you have a certificate for?

WITNESS LUBOLD: As I said prior to this here, on the use of the self rescuer, you can't learn anything in five minutes, can you?

MR. TISDALE: Was that the extent of the training that you had on the self rescuer?

WITNESS LUBOLD: Right. They tell you how to use it. The only way I was ever taught of using anything was, to the best of my knowledge, to try it yourself; isn't that true?

The safety lamp, they did let us try.

Now, if I may come up there and show you something -- if I may. How can they have two schools in the same day?

(Witness Lubold approaches bench.)

(Mr. Tisdale perusing documents.)

MR. TISDALE: Mr. Lubold has shown me certificates for training on the use of the self rescuer, the flame safety lamp; and they both were August the 6th.

I don't understand what you are telling me when you say: how can they give two in the same day?

WITNESS LUBOLD: When you have 50 or 60 men working, and you go through with the safety lamp --

MR. TISDALE: Why don't you sit back down. We will talk about this in a minute.

(Witness Lubold complying.)

MR. TISDALE: You are on the record for having received credit for receiving training on August the 6th for both of those?

WITNESS LUBOLD: Yes. They didn't have it.

MR. TISDALE: You are telling me that you did not have the training?

WITNESS LUBOLD: No. The self rescuer, they show you how to work it.

MR. TISDALE: Yes.

WITNESS LUBOLD: But you don't work it.

MR. TISDALE: A five-minute dissertation or description of the self rescuer is not an approved training course?

WITNESS LUBOLD: You should have it yourself. You should put it to yourself to know how to go about it, right?

On your safety lamp, they left you do that. They left you do that with this here little tank of propane, and where you put the safety up on the glass when it went off, when it pushed off.

Now, how can they give you two schools in the same day of the 6th, because we come out and we did not change clothes. We tried to test the safety lamp. From there I changed clothes, and I went home.

MR. TISDALE: How much time elapsed in that period of time?

WITNESS LUBOLD: Oh, you have 60 to 75 men working; it is going to take a little bit of time for everybody to go through with it.

MR. TISDALE: All the men were trained at once?

WITNESS LUBOLD: Yes. The schools I went to -- I went to quite a few schools. And you had lectures; you did it yourself, did you not?

Now, how can you have two schools when you only had a chance to use one at a time, your safety lamp?

MR. TISDALE: Where was this training conducted?

WITNESS LUBOLD: In the shift shanty at the Porter

Tunnel; at the washhouse.

MR. TISDALE: At the washhouse?

WITNESS LUBOLD: Yes.

MR. TISDALE: How big is that room?

WITNESS LUBOLD: Why, when all the men are in there, you are bumping against each other.

MR. TISDALE: All the people got the training the same day?

WITNESS LUBOLD: Yes.

MR. TISDALE: Your training with the self rescuer was five minutes?

WITNESS LUBOLD: Right.

MR. TISDALE: What about your training for the roof and rib control?

WITNESS LUBOLD: You learned that on your own; you know what I mean?

MR. TISDALE: Well, the training for the roof and rib control incorporates instruction on the approved roof control system in use at the mine. Did you have that kind of training?

WITNESS LUBOLD: No.

MR. TISDALE: Did you ever see the approved roof control plan in writing?

WITNESS LUBOLD: No. The only way you learned anything at the Porter Tunnel, you did it yourself. If you wanted

a second outlet--like I told you prior to this, I never knew there was a second outlet up there until I was sent up with a buddy of mine with 50 pounds of nails, and each of us had a hatchet, and nailing the cleats on the ladder down and the rails holding up.

MR. TISDALE: So, you never participated in an escape training plan?

WITNESS LUBOLD: No, never. Never.

In fact, when we went up that second outlet, the escape route, I started raising Cain. I thought there was a fan up there, but it was natural air, how it whistled and carried on when you go up through.

And I started raising the devil, why they had that fan turned on and men working in there--it could suck you up in that fan and chop you to pieces -- until I got up and I found out there was no fan there; it was just natural ventilation.

MR. TISDALE: So, your last day was January the 28th?

WITNESS LUBOLD: Yes.

MR. TISDALE: Do you know why you were laid off?

WITNESS LUBOLD: I don't know. The only thing I know is the popularity vote.

MR. TISDALE: How old are you?

WITNESS LUBOLD: 54.

MR. TISDALE: I don't have any more questions, Mr.

Lubold.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Alvin, I would like for you to clear me up on one thing. You said that the bottom holes in the monkey, that you could not drill it down on account of you would hit rock.

WITNESS LUBOLD: Right.

MR. VICINELLY: Will you explain that to me?

WITNESS LUBOLD: You had to force up about two foot, and the roll coming in. When you drilled, you would hit the roll.

And you know if you try to drill through a roll with a carbon tipped bit, you won't get no place.

MR. VICINELLY: Was this the condition all the way through the monkey, or was this just one area?

WITNESS LUBOLD: It come down across the pitch. The roll come down across the pitch.

MR. VICINELLY: Where did you start hitting the roll?

WITNESS LUBOLD: Oh, back at -- I think it was Number 10.

MR. VICINELLY: Would you have the same condition in your gangway?

WITNESS LUBOLD: Yes. Yes, the roll come down. But they were firing rock and coal at the same time in the gangway, which we went under the roll; you know what I mean?

On the bottom side, you had about three foot of coal. And the top, the above side, up in the top, we were putting 10- and 12-foot timber in when they were single.

But then we went back and we double timbered it, because the timber was cracking.

MR. VICINELLY: Let's stay with this rock on the bottom holes, because, again, I am not an anthracite miner, and I am trying to get it in my mind.

If I understood you, nowhere in the monkey could you drill a bottom hole, because you would encounter rock, and you couldn't --

WITNESS LUBOLD: Evidently, if you had come down to the center of the gangway -- but then you had what they call "a bug" in there, which some of these men right here today -- back here behind me, which he is a damned good miner, Walter Grose; and he will tell you the same thing.

You will hit that there roll in the center dividing it, and you will have a heck of a time -- well, you couldn't go through it.

MR. VICINELLY: Did this roll run continuously from Number 9 --

WITNESS LUBOLD: It is a divider that goes through the coal.

MR. VICINELLY: But are there times that you may not have this roll?

WITNESS LUBOLD: No.

MR. VICINELLY: May not have this divider; the divider is there continuously?

WITNESS LUBOLD: Right.

MR. VICINELLY: Does the same divider go down into the gangway?

WITNESS LUBOLD: Yes; it goes up in the breast, too.

MR. VICINELLY: All right. If I wanted to go in there tomorrow and drill a test hole in my bottom rib, you are telling me that it is impossible to drill a hole down through there?

WITNESS LUBOLD: I didn't say it was impossible. Wait; I didn't say it was impossible.

You just may go up there and by dumb luck -- understand me, I am not calling you any names or nothing --

MR. VICINELLY: Yes.

WITNESS LUBOLD: I am just telling you; by dumb luck, you are just liable to take that steel and start drilling and you will miss that, and you will get it in.

In the same token, you are just liable to take that same steel -- you know what I mean -- and go back and start drilling, and you are just liable to hit that; understand what I mean?

MR. VICINELLY: Yes. All right, Alvin. But if I attempted to drill one hole in the bottom rib and I hit the

rock, could I move that steel to the left or to the right or down lower and possibly miss that and get through to the required test, depth of the test holes?

WITNESS LUBOLD: Your roll is liable to come down, and she is just liable to pull out in front of you -- you know what I mean -- cut you off.

MR. VICINELLY: All right.

MR. COOK: Any other questions?

(No response.)

MR. COOK: Thank you, Mr. Lubold.

(Witness excused.)

MR. COOK: I would like to call one more witness. After this, we will break for lunch.

We would like to call Mr. Shadle at this time, please.

Whereupon,

DENNIS EARL SHADLE

having been duly sworn, testified as follows:

MR. PHARES: Please state your full name.

WITNESS SHADLE: Dennis Earl Shadle.

MR. PHARES: How do you spell your last name?

WITNESS SHADLE: S-h-a-d-l-e.

MR. PHARES: What is your address?

WITNESS SHADLE: 34 Spring Street, Tremont.

MR. PHARES: Mr. Shadle, before we begin the

questioning, I want you to understand that this is a formal investigatory hearing.

A written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question. And you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement that you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS SHADLE: Yes.

MR. PHARES: Thank you.

MR. VICINELLY: Dennis, where are you presently employed?

WITNESS SHADLE: Right now?

MR. VICINELLY: Yes.

WITNESS SHADLE: Donald-Son.

MR. VICINELLY: Did you work the Porter Tunnel?

WITNESS SHADLE: Yes.

MR. VICINELLY: How long did you work the Porter Tunnel?

WITNESS SHADLE: About three years, four months.

MR. VICINELLY: When did you leave the Porter Tunnel?

WITNESS SHADLE: Right after all the men were gotten out. Well, it was right before I got my teeth pulled. When I went back to work, the men were gotten out; and there was no work.

MR. VICINELLY: When you worked at the Porter Tunnel, where did you work?

WITNESS SHADLE: It was right before when the flood happened.

MR. VICINELLY: Well, let me rephrase that. Did you work the West Skidmore section?

WITNESS SHADLE: Yes, I did.

MR. VICINELLY: How long?

WITNESS SHADLE: About a year or so.

MR. VICINELLY: What were your duties when you worked on the West Skidmore section?

WITNESS SHADLE: I worked in the breasts; I worked in the gangway.

MR. VICINELLY: Do you recall in what breast you

started to work?

WITNESS SHADLE: Number 6, I think.

MR. VICINELLY: When did you start working on the gangway? Do you recall which chute you were at?

WITNESS SHADLE: Around Number 13 or 14.

MR. VICINELLY: Did you work continuously in the gangway until --

WITNESS SHADLE: I worked in the gangway until 17 or 18, and then I was put over --

MR. VICINELLY: Were you a lead miner?

WITNESS SHADLE: No. George Madenford was the lead miner.

MR. VICINELLY: When you started to work in the Skidmore, were you aware that you were approaching abandoned workings or that there were abandoned workings in the vicinity?

WITNESS SHADLE: I didn't know it then, when I started in there.

MR. VICINELLY: When were you notified?

WITNESS SHADLE: When they hit the water, that is when I found out about it; Number 8.

MR. VICINELLY: When they encountered the water at Number 8 breast?

WITNESS SHADLE: Yes.

MR. VICINELLY: You were never notified; you just found out? Did you discuss it afterwards with the foreman?

WITNESS SHADLE: No. I think it was Number 8 where I had my knee hurt. I was off when they hit the -- I am pretty sure it was my knee. And I was off when they hit the water at Number 8.

When I went back, I went back in the breast; and that is -- well, they were already longholing. The guy I worked with said, "We have to longhole the holes."

MR. VICINELLY: Did anyone explain to you the test hole drilling pattern?

WITNESS SHADLE: Nobody explained it to me; just the lead man I worked with said, "We have got to drill one up and one flank, each side."

MR. VICINELLY: All right. When he explained it to you, where were you working? In the breast?

WITNESS SHADLE: Yes.

MR. VICINELLY: Would you repeat again: how were the test holes drilled?

WITNESS SHADLE: In the breast, we drilled one hole up and a flank hole in each side.

MR. VICINELLY: How deep were those holes?

WITNESS SHADLE: About 24 or 26 feet.

MR. VICINELLY: Then, from there you went to work in the gangway?

WITNESS SHADLE: Yes. My knee didn't seem to be getting any better, so I asked Ron Adley. I checked with him

first to see if it would be okay with him. He said I would have to check with the office.

I checked in the office. They said, "All right." So, I switched with him and went in the gangway.

MR. VICINELLY: Were you drilling test holes in the gangway?

WITNESS SHADLE: Yes.

MR. VICINELLY: Would you explain to me how you were drilling the test holes?

WITNESS SHADLE: One up -- or one straight ahead and one up the pitch.

MR. VICINELLY: You did not drill lower holes?

WITNESS SHADLE: No.

MR. VICINELLY: Were you instructed to drill the lower holes?

WITNESS SHADLE: I never heard anybody say anything about it.

MR. VICINELLY: Were you aware at that time of the danger you could have encountered -- I am talking prior to the breakin -- by not drilling the bottom holes?

WITNESS SHADLE: I never thought --

MR. VICINELLY: Were you concerned that they were not drilling bottom holes?

WITNESS SHADLE: For myself, I didn't know any better, because I am -- well, I am only inside about four-and-a-half or

five years.

I didn't know -- I never was around water. I didn't know anything about it, only but what I was told. I worked with the lead man. I learned a lot off of him.

He was concerned about drilling longer holes as well as --

MR. VICINELLY: Who was the lead man in the gangway?

WITNESS SHADLE: George Madenford.

MR. VICINELLY: During the time that you were working in the gangway, did you encounter any problems in drilling test holes?

WITNESS SHADLE: No. It was a little dirty once in awhile, and we would have to start a new one.

MR. VICINELLY: Did you encounter any water in your test holes during the time that you were drilling in the gangway?

WITNESS SHADLE: No.

MR. VICINELLY: When you were working up in the breast, did you encounter any water?

WITNESS SHADLE: Yes. When we got up so far, we had to drill a water hole after the water hit Number 8. All the breasts would go up so far, and then you would drill ahead up into the old workings and tapped what water there was there.

MR. VICINELLY: Were you working Number 8 when they tapped that water off?

WITNESS SHADLE: No, I think I was off with my knee hurt then.

MR. VICINELLY: Which breast were you working in -- did you work in Number 9 breast?

WITNESS SHADLE: No, we had two breast crews out. We worked every other one. I don't know if I was in 8, 10, or 12; it was something like that.

MR. VICINELLY: Well, the breast that you were working in, did you tap water off?

WITNESS SHADLE: Yes.

MR. VICINELLY: How did you tap that off?

WITNESS SHADLE: Longhole it; hit the water; and drill another hole or two, and you will see the tap; then go back to the last breast that was already tapped.

MR. VICINELLY: When you say "longhole it," what was the depth of the hole?

WITNESS SHADLE: They differed from 28 to 36 feet; somewhere around there. Different depths in the different breasts.

MR. VICINELLY: During the time the water was draining off, did you work that breast?

WITNESS SHADLE: Not that one, no. We went back to the last one that was finished. And that there, the water was usually drained off. Then we would take the breast up into the old workings.

MR. VICINELLY: After it was drained off, you went back to that breast?

WITNESS SHADLE: Yes.

MR. VICINELLY: Then what did you do? When you opened up, did you have any problems?

WITNESS SHADLE: No, just some wet coal; that is about all.

MR. VICINELLY: Was there any water that came out?

WITNESS SHADLE: No.

MR. VICINELLY: When you tapped these holes off, was there anybody around? I am talking about the foreman.

WITNESS SHADLE: Well, when we hit the water, we gathered all of our tools and put them in one place. Usually by then, he was around, making his rounds.

When he was around, he would see we had the holes draining. Then he would tell us where to go next.

MR. VICINELLY: Were you instructed that when you tapped water off, when you drilled into the water, that you were to notify the foreman?

WITNESS SHADLE: When we were going up into the old workings, he said, "When you hit the water, gather your tools and let me know."

MR. VICINELLY: Joe?

MR. COOK: Mr. Shadle, in working the breast, what was your drilling pattern for test holes in the breast?

WITNESS SHADLE: One up, flank hole on either side.

MR. COOK: Flank hole on both sides?

WITNESS SHADLE: At first, it was only on the one side. Then it was on the -- at first, it was just to the blind side.

But after the water was hit -- now, wait a minute. After we started draining water from the old workings, then we were told to drill on each side, a flank hole in each side.

MR. COOK: That was after you had hit the old workings at Number 8?

WITNESS SHADLE: Yes.

MR. COOK: On both sides?

WITNESS SHADLE: Yes.

MR. COOK: You were working in the gangway up until the time of the inundation?

WITNESS SHADLE: No. I was moved -- I was in the gangway up to around 17 or 18; I am not sure which one. Then I was moved.

MR. COOK: Were there any unusual conditions noticed in the gangway while you were working there?

WITNESS SHADLE: No, we had quite a bit of rock. There was very little coal then.

MR. COOK: Was the coal soft or hard?

WITNESS SHADLE: It was dirty.

MR. COOK: Dirty.

What kind of safety training did you receive, Mr. Shadle? I am thinking about an evacuation plan in the mine, first aid.

WITNESS SHADLE: Just the first-aid classes that the inspectors gave at the tunnel.

MR. COOK: Were you instructed in the use of the flame safety lamp?

WITNESS SHADLE: Yes.

MR. COOK: The self rescuer?

WITNESS SHADLE: Yes.

MR. COOK: Who conducted that training?

WITNESS SHADLE: The inspectors. I don't know what their names --

MR. COOK: Normally inspectors and not mine personnel?

WITNESS SHADLE: No.

MR. COOK: Those are all the questions I have.

MR. VICINELLY: Jim?

MR. SHOBER: Did you receive orders daily when you came into your working place?

WITNESS SHADLE: Anywhere I worked? Every day we got -- orders were told.

MR. SHOBER: Now then, the drill pattern that they were using in the West Skidmore Gangway when you worked there, was it always the same; or was it ever altered or changed?

WITNESS SHADLE: It was always the same.

MR. SHOBER: What I mean by that is: you were using one hole in the middle of the face and one along the high side rib, or whatever the pattern may have been; if there was a cut pulled and fired, and the following day when you came into work after it had been cleaned up, at any time did you notice any moisture along the face that would give you cause to change the pattern and maybe drill a hole in the face where you saw the moisture? Or would it remain the same at all times?

WITNESS SHADLE: It mainly stayed the same.

MR. SHOBER: Who designed this pattern? Was it the day-shift boss or what-have-you?

WITNESS SHADLE: I don't know where the orders came from. I drilled it the way the lead man had drilled.

MR. SHOBER: George Madenford?

WITNESS SHADLE: Yes.

MR. VICINELLY: Jack?

MR. TISDALE: Mr. Shadle, while you were drilling test holes, were there ever foremen in the place watching you?

WITNESS SHADLE: Oh, once in awhile when he was making his rounds when we were drilling.

MR. TISDALE: Do you think he knew the pattern you were following?

WITNESS SHADLE: Yes, because usually it was always the same.

MR. TISDALE: Did you see him measure the depth of

the holes at any time?

WITNESS SHADLE: Never measured. He was there already when we pulled steels back. If you know the length of the steels, you could just add them up.

MR. TISDALE: We received testimony that people were drilling test holes in the low side rib down at a 45-degree angle.

Have you seen anybody drill test holes like that?

WITNESS SHADLE: No.

MR. TISDALE: Do you know where the escapeway is out of the West Skidmore section?

WITNESS SHADLE: I know where it is, yes.

MR. TISDALE: Have you received instructions on how to escape from the West Skidmore section?

WITNESS SHADLE: No.

MR. TISDALE: Have you ever traveled the escapeway?

WITNESS SHADLE: No.

MR. TISDALE: You mentioned earlier about hurting your knee. Was it an accident in the mine?

WITNESS SHADLE: Yes.

MR. TISDALE: How did you hurt that knee?

WITNESS SHADLE: I slipped out of the heading and hit the loose coal, a flat piece of slate, and slipped.

MR. TISDALE: How much time did you lose?

WITNESS SHADLE: I lost six or seven weeks; six-and-

a-half or seven weeks.

MR. TISDALE: Can you tell me the date of the accident?

(No response.)

MR. TISDALE: Can you tell me about the date of the accident; which month?

WITNESS SHADLE: June, I think it was.

MR. TISDALE: June, 19--

WITNESS SHAELE: '76.

MR. TISDALE: '76.

WITNESS SHADLE: I think it was; I am not sure. I am trying to think of how old my daughter was; I could tell you then.

'76, I think.

MR. TISDALE: Had anybody explained to you the federal regualtions and the state regulations as relates to drilling test holes?

WITNESS SHADLE: No, they didn't. It was never explained. The only way I knew anything about it was when I went there, that they were doing it already; the lead man said, "We are doing it this way."

He didn't say where the orders came from. No foreman ever told me any different.

MR. TISDALE: I don't have any more questions.

MR. VICINELLY: Dennis?

MR. STRAIN: Mr. Shadle, did anyone tell you anything about the abandoned workings in the area?

WITNESS SHADLE: Only what I got out of some old miners of such. George Madenford, the guy I worked with, he knew a lot about the area. He said there was water there.

MR. STRAIN: Where was he concerned about water?

WITNESS SHADLE: The whole west side. He said that was worked hard for years. That is the only way I knew anything about water in that area.

MR. STRAIN: Did he think it was above you or below you?

WITNESS SHADLE: That I don't know.

MR. STAIN: Did anybody else talk to you about the abandoned workings and where the water might be?

WITNESS SHADLE: No.

MR. STAIN: You never had any meetings with company officials?

WITNESS SHADLE: No.

MR. STRAIN: Those are all the questions I have.

MR. VICINELLY: Bob?

MR. PHARES: I believe you testified that you are currently employed at Donald-Son Coal Company; is that correct?

WITNESS SHADLE: Yes.

MR. PHARES: What is your position there?

WITNESS SHADLE: Run loader; motor operator.

MR. PHARES: I have nothing further.

MR. COOK: We have one question from the audience.

You indicated that Mr. Madenford was concerned about the depth of the longholes.

WITNESS SHADLE: Yes.

MR. COOK: Did he express any concern about drilling the flank holes on the low rib side in the gangway?

WITNESS SHADLE: I don't remember if he ever said anything or not. It has been quite awhile.

MR. VICINELLY: Dennis, I have one more that I would like to ask you.

You stated you worked the mine about five years; is that correct? How long have you worked in the anthracite mines?

WITNESS SHADLE: About four or four-and-a-half; somewhere around there.

MR. VICINELLY: What experience do you have -- do you think that -- can bottom holes to your left or your flank holes on the bottom be drilled?

WITNESS SHADLE: Definitely.

I am not trying to be smart. How else do you think they sink slope? If the flank hole wouldn't go in at an angle, it would be just the same as almost like drilling your breaker or your wedge in the slope.

MR. VICINELLY: Well, maybe I -- the reason I ask

you is that we had one of the witnesses say that you would encounter rock or shale down there, and it would be hard to drill this hole.

The question I am asking is: can this hole be drilled, your bottom hole, to the best of your knowledge?

WITNESS SHADLE: I think so, yes.

MR. VICINELLY: Did you ever try to drill one, or did you ever see anyone drill one?

WITNESS SHADLE: No.

MR. VICINELLY: Any other questions?

(No response.)

MR. VICINELLY: All right.

Thank you, Dennis.

(Witness excused.)

MR. COOK: We will now adjourn for lunch and come back at 2:30.

(Whereupon, at 1:20 p.m. the hearing was adjourned to reconvene at 2:30 p.m. this same day.)

AFTERNOON SESSION

(2:35 p.m.)

MR. COOK: The hearing will come to order.

At this time, we would like to call Mr. John Zanella as our next witness.

Whereupon,

JOHN A. ZANELLA

having been duly sworn testified as follows:

MR. PHARES: Please state your name and spell it for the record.

WITNESS ZANELLA: John Zanella, Z-a-n-e-l-l-a.

MR. PHARES: Before we begin the questioning, I want you to understand that this is a formal investigatory hearing.

A written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question. And you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you

make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS ZANELLA: Yes.

MR. PHARES: Thank you.

MR. COOK: Mr. Zanella, where are you now employed?

WITNESS ZANELLA: Kocher Coal Company, Tower City.

MR. COOK: How long have you been employed at the Tower City mine, the Porter Tunnel Mine?

WITNESS ZANELLA: A year-and-a-half or a little better.

MR. COOK: Where have you worked since you have been employed there?

WITNESS ZANELLA: In the Skidmore Gangway mainly, conveyor operator in the gangway and up the pitch a little bit.

MR. COOK: So, you have always worked in the West Skidmore Gangway section?

WITNESS ZANELLA: Yes.

MR. COOK: You say you worked up in the pitch?

WITNESS ZANELLA: Yes.

MR. COOK: Are you a miner or a laborer?

WITNESS ZANELLA: I just got my miner's paper about two months ago.

MR. COOK: When you went to work in the West Skidmore section, what breast did you start working in; do you remember?

WITNESS ZANELLA: Would you clarify that?

MR. COOK: Yes. Would you have been in -- or chute; either one. Would you have been in 10 chute, 6 chute?

WITNESS ZANELLA: When I started, I worked in the gangway.

MR. COOK: You started out working in the gangway?

WITNESS ZANELLA: Yes.

MR. COOK: How long did you work in the gangway?

WITNESS ZANELLA: Oh, I worked from Number 3 into Number 5; then I got sent up the pitch.

MR. COOK: Had you worked in the pitch up until the time of the inundation, until the time of the flooding?

WITNESS ZANELLA: No.

MR. COOK: Where did you work after you worked up in the pitch?

WITNESS ZANELLA: I went up to the, I believe it was, the third or fourth miner heading; then I came back down to the gangway.

MR. COOK: Back down to the gangway.

Were you working in the gangway prior to the flooding?

WITNESS ZANELLA: No. I was in the conveyor Number 1.

MR. COOK: Number 1 conveyor.

When you came back to the gangway, where had you been working prior to that?

WITNESS ZANELLA: It was from around 8 into 13 -- 12 or 13.

MR. COOK: So, you worked in 8 through 12 or 13 chute.

While you were working in Number 8 chute, did any unusual occurrences happen in that chute?

WITNESS ZANELLA: They had hit water in that chute up at the pitch.

MR. COOK: Would you have been working on the shift in which they hit the water?

WITNESS ZANELLA: Yes.

MR. COOK: Would you describe for us, please, what happened?

WITNESS ZANELLA: We were working, offhand, and then the miner came down off the pitch and told us they had hit water. We got ahold of the foreman and then moved outside. We had the rest of the shift off.

MR. COOK: Did you drill into the water or shoot into the water?

WITNESS ZANELLA: I wasn't on the crew up the pitch. I was in the gangway at the time.

MR. COOK: You were in the gangway at the time that they had hit water?

WITNESS ZANELLA: Yes.

MR. COOK: When you were working in the gangway, who did you work with?

WITNESS ZANELLA: George Madenford, mainly, and John Morgan.

MR. COOK: We have been questioning all of the former employees about the drilling of test holes to determine if there were any old workings or abandoned works in advance of the working face.

Mr. Madenford has testified about the drilling pattern in the gangway and mentioned working with you.

He stated that they were drilling in the face areas and the flank holes and the higher rib side and that the down holes were not being drilled.

While you were working with him, how was your drilling pattern, as you remember it?

WITNESS ZANELLA: In the face and up the flank.

MR. COOK: Did you drill any down holes at all?

WITNESS ZANELLA: No.

MR. COOK: What was the reason you didn't drill any down holes?

WITNESS ZANELLA: I don't know.

MR. COOK: Had anyone discussed them with you?

WITNESS ZANELLA: No.

MR. COOK: Who instructed you on the drilling pattern for the test holes?

WITNESS ZANELLA: It was never discussed; I was never told about it. I just did what the head miner said to do.

MR. COOK: The lead miner, did you follow his instructions?

WITNESS ZANELLA: Yes.

MR. COOK: Did you ever see a map of the sections you were working on?

WITNESS ZANELLA: No.

MR. COOK: Did you ever see a written plan of how you would drill your test holes?

WITNESS ZANELLA: No.

MR. COOK: Who else was working with you and Mr. Madenford at that time?

WITNESS ZANELLA: Bob Cauffman worked with us for awhile; John Morgan; Jim Smith; Philip Sabatino; Wally Grose at times; a few other guys I just can't remember offhand. There were guys in and out.

MR. COOK: As you worked at the Porter Tunnel Mine, what kind of safety training did you receive?

WITNESS ZANELLA: None.

MR. COOK: Maybe I could clarify that some. Have you

ever traveled the escapeways out of the mine from your working place to the surface?

WITNESS ZANELLA: No.

MR. COOK: Have you ever been instructed in the use of the self rescuer?

WITNESS ZANELLA: No.

MR. COOK: Have you ever had first-aid training?

WITNESS ZANELLA: Back in high school I did; I had a course in it.

MR. COOK: But not at the mine?

WITNESS ZANELLA: No.

MR. COOK: How often did the section foreman visit your working place as a rule?

WITNESS ZANELLA: Twice a day.

MR. COOK: Did he discuss with you the drill patterns at that time or at any of those times?

WITNESS ZANELLA: Would you clarify that?

MR. COOK: When the section foreman came into the working place, did he discuss with you or check the test holes that had been drilled?

WITNESS ZANELLA: Once in awhile he did, yes.

MR. COOK: How would he do that?

WITNESS ZANELLA: He would put the steels in while we were there, and sometimes he would ask us how far we drilled our holes in and stuff like that.

MR. COOK: But in your work in the gangway, you did not drill the bottom flank holes?

WITNESS ZANELLA: No.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: John, just to clear me up, what breast were you working in?

WITNESS ZANELLA: Number 4.

MR. VICINELLY: Were you drilling test holes in Number 4 breast when you were working in it?

WITNESS ZANELLA: No.

MR. VICINELLY: When you went to Number 4 breast -- when you were done driving Number 4 breast up, did you go to another breast?

WITNESS ZANELLA: I didn't go all the way up the Number 4 breast. I only went up to the fourth miner head, I believe; and then I got put back down in the gangway.

MR. VICINELLY: From there you went down to the gangway?

WITNESS ZANELLA: Yes.

MR. VICINELLY: During the time that you were working in the West Skidmore, did you have any problems getting drill steels?

WITNESS ZANELLA: I never asked for drill steel. That was the head miner's job; he got them.

MR. VICINELLY: During the time that you were

drilling holes, did you run out of drill steels?

WITNESS ZANELLA: I can't remember offhand.

MR. VICINELLY: How deep were you drilling the holes in the gangway?

WITNESS ZANELLA: 26 feet.

MR. VICINELLY: Again, will you repeat where the 26-foot holes were drilled?

WITNESS ZANELLA: In the face and then flank holed up the pitch.

MR. VICINELLY: Did you encounter any problems in drilling the test holes?

WITNESS ZANELLA: Yes.

MR. VICINELLY: What were they?

WITNESS ZANELLA: Steels would stick. Holes would be damp with water once in awhile that you wouldn't be able to -- you would have to clean them regularly and stuff like that.

Maybe you will hit seams of rock once in awhile and start over with the holes.

MR. VICINELLY: What would you do when you hit a seam of rock?

WITNESS ZANELLA: We would take it out and start over with another drill hole or put another bit on and try to finish it if we could.

MR. VICINELLY: Did you ever work up in the monkey?

WITNESS ZANELLA: No.

MR. VICINELLY: That is all I have.

MR. COOK: Mr. Shober?

MR. SHOBER: John, did you ever have a misfired hole -- or a hole in the gangway when you went to fire a cut; do you remember?

WITNESS ZANELLA: There was times that the cuts didn't go, but that was just mainly because the wires weren't hooked up.

MR. SHOBER: But no other reason?

WITNESS ZANELLA: No other reason that I can place.

MR. SHOBER: Why, John, when you were working in the gangway, who was the lead gangway miner at the time?

WITNESS ZANELLA: Most of the time it was George Madenford. Then it was John Morgan. They were the two head miners I was under.

MR. SHOBER: Did either of them ever discuss abandoned workings at anyplace in the area?

WITNESS ZANELLA: Yes.

MR. SHOBER: Did they ever discuss any orders issued to them, pass them on to you?

WITNESS ZANELLA: No.

MR. SHOBER: Those are all the questions I have.

MR. COOK: Mr. Tisdale?

MR. TISDALE: When you were drilling the test holes,

Mr. Zanella, was the foreman ever in the place while you were drilling them, that you can recall?

WITNESS ZANELLA: Yes. Once in awhile when he was making his rounds, he came in while we were drilling test holes.

MR. TISDALE: And he was aware that you were not drilling the holes down the low side rib?

WITNESS ZANELLA: I couldn't say if he was aware of it or not. But we weren't drilling them down.

MR. TISDALE: Did you see any holes that anyone else drilled down the low side rib?

WITNESS ZANELLA: No.

MR. TISDALE: I don't have any further questions.

MR. COOK: Mr. Strain?

MR. STRAIN: Mr. Zanella, in the discussions you heard about the abandoned workings, where did people think the abandoned workings were?

WITNESS ZANELLA: No one knew where they were, just that we were going to hit them sooner or later.

MR. STRAIN: Where were they looking?

WITNESS ZANELLA: They were looking all over; up the pitch, in the gangway, in the monkey.

MR. STRAIN: Did they think they might hit it below the gangway?

WITNESS ZANELLA: I don't believe so.

MR. STRAIN: Did you ever hear anybody discuss the possibility of hitting it below the gangway?

WITNESS ZANELLA: No.

MR. STRAIN: Were you ever present when the section foreman or the foreman discussed the abandoned workings?

WITNESS ZANELLA: No.

MR. STRAIN: Who would the people be that you were with when these were discussed?

WITNESS ZANELLA: Would you rephrase that?

MR. STRAIN: Who would the persons be that were talking about the abandoned workings?

WITNESS ZANELLA: Most of the guys worked in the gangway, like George Madenford and, you know, whoever we were with mostly.

MR. STRAIN: Were they concerned about running into these abandoned workings?

WITNESS ZANELLA: We all were concerned, I believe.

MR. STRAIN: Did anybody talk about using longer drill holes than 26 feet?

WITNESS ZANELLA: Not that I know of, no.

MR. STRAIN: Who was your section foreman?

WITNESS ZANELLA: Palmer Merwine and Nick Dunkle, I guess, at times.

MR. STRAIN: When you were working with Philip Sabatino, who else were you working with at that time?

WITNESS ZANELLA: Me, Philip, George, and Wally.

MR. STRAIN: George being --

WITNESS ZANELLA: George Madenford; and Wally Grose.

MR. STRAIN: Who was the person who was doing the drilling during that time?

WITNESS ZANELLA: Well, George used to do most of the drilling, George Madenford.

MR. STRAIN: What would the other people be doing while he was doing the drilling?

WITNESS ZANELLA: Some would be cleaning up. Some of them would be laying plank down for the floor. I used to go get the powder and timers and go up in the monkey and tell the guys that we were getting ready to fire, hooking the line up, getting the line ready.

MR. STRAIN: Who would set the blast?

WITNESS ZANELLA: Everybody different would set it. It never was -- I couldn't really say.

MR. STRAIN: Did Philip Sabatino say anything about drilling holes down the pitch?

WITNESS ZANELLA: No. When I did work with Sabatino and these guys, mainly, that was from 3 to 4, though. After that, I never worked with Sabatino or Wally in the gangway.

It was when I first started that I did work with these guys in the gangway.

MR. STRAIN: At that time, were they drilling any holes ahead?

WITNESS ZANELLA: No.

MR. STRAIN: When you were working up in the breasts, how were the holes drilled then?

WITNESS ZANELLA: Just the regular cut; they fired a cut out.

MR. STRAIN: How deep would they be?

WITNESS ZANELLA: A six-foot cut.

MR. STRAIN: Were any test holes drilled?

WITNESS ZANELLA: No.

MR. STRAIN: When you came back down to the gangway, they were already at Number 8; is that correct?

WITNESS ZANELLA: 7 or 8; in around there somewhere.

MR. STRAIN: Was that the first time that you started drilling the holes?

WITNESS ZANELLA: Yes.

MR. STRAIN: Do you remember the condition of the coal?

WITNESS ZANELLA: Not offhand.

MR. STRAIN: Did you ever hear the section foreman or the foreman ask whether you were drilling the holes?

WITNESS ZANELLA: They would ask whether we were drilling the holes, yes.

MR. STRAIN: Did they ask you where you were drilling

them?

WITNESS ZANELLA: Yes, they asked if we were drilling them straight ahead, up the pitch.

MR. STRAIN: And they never mentioned anything about drilling down?

WITNESS ZANELLA: No.

MR. STRAIN: In the gangway, did you ever observe holes drilled by the previous shift?

WITNESS ZANELLA: Do you mean down?

MR. STRAIN: In any direction.

WITNESS ZANELLA: Yes. Every once in awhile when they would fire, we would clean up the cut. When you would go to drill, you would run into a longhole that was drilled in; you know, there would be a sign once in awhile that you would find a hole.

MR. STRAIN: Did they ever leave a hole that they left for you to complete?

WITNESS ZANELLA: I believe they did once -- once or twice.

MR. STRAIN: Did they tell you about it, or did you just discover that it wasn't long enough?

WITNESS ZANELLA: They usually marked it with chalk or they told us about it.

MR. STRAIN: Did you ever discover any holes that they had drilled down the pitch?

WITNESS ZANELLA: No.

MR. STRAIN: If they had drilled a hole all the way to 26 feet, would they tell you that that hole was done?

WITNESS ZANELLA: Yes.

MR. STRAIN: Would they mark that?

WITNESS ZANELLA: Yes.

MR. STRAIN: Those are all the questions I have.

MR. COOK: Mr. Phares?

MR. PHARES: Mr. Zanella, I probably missed this in your earlier testimony.

When you returned to the gangway at Number 8 chute, how long did you stay in the gangway?

WITNESS ZANELLA: I believe it was to 13, around there.

MR. PHARES: Mr. Zanella, I believe that the recovery operations were completed sometime in late March or early April.

You were working during April; is that correct?

WITNESS ZANELLA: Yes.

MR. PHARES: Were there any meetings in the bath-house or on mine property anywhere concerning the upcoming hearings that are being held this week?

WITNESS ZANELLA: Yes.

MR. PHARES: When was that held?

WITNESS ZANELLA: I couldn't say offhand.

MR. PHARES: Was it sometime within a month after the recovery ended?

WITNESS ZANELLA: Probably after a month, yes.

MR. PHARES: Who attended that meeting?

WITNESS ZANELLA: Oh, they had the guys together; sometimes, I guess, they called a guy in at a time on the side. It was all different.

MR. PHARES: Where was this meeting held?

WITNESS ZANELLA: Usually in the back of the office.

MR. PHARES: Who would be in the back of the office? Who did you talk to?

WITNESS ZANELLA: Sam, and one time Richter was there and the lawyer was there when we were all together.

MR. PHARES: When you refer to "the lawyer," you mean the lawyer for Kocher Coal Company?

WITNESS ZANELLA: Yes.

MR. PHARES: Do you know his name?

WITNESS ZANELLA: No.

MR. PHARES: What was said at that meeting that you attended?

WITNESS ZANELLA: Oh, it was mostly about our rights. And the lawyer would be there if we needed reference. If we wanted to have our own lawyer, we could have our own lawyer, and stuff like that.

MR. PHARES: Was there any discussion of any test

holes that were drilled or were not drilled?

WITNESS ZANELLA: Yes.

MR. PHARES: Could you tell us what that discussion involved?

WITNESS ZANELLA: Well, they had asked me if while I was in the gangway, did I recall drilling any holes down? And I said, "No."

MR. PHARES: What was their response to that?

WITNESS ZANELLA: They said they had been drilling them down from 7 or 8 on in. That was it.

MR. PHARES: They said that they had been drilling them?

WITNESS ZANELLA: Yes.

MR. PHARES: Was there any other discussion whatsoever?

WITNESS ZANELLA: No.

MR. PHARES: Do you feel like there was any attempt at all to influence your testimony here today?

WITNESS ZANELLA: I don't know if there was influence or not. But I came here to tell the truth, and I am telling the truth; and that is it.

MR. PHARES: Mr. Zanella, did you discuss your testimony today regarding drilling test holes with anybody else, any other co-workers?

WITNESS ZANELLA: You mean downstairs?

MR. PHARES: No, I am talking about previous to the week of the hearings, did you have any discussions with any of your other co-workers about testimony regarding these test holes?

WITNESS ZANELLA: We talked about it.

MR. PHARES: What was the nature of the discussions?

WITNESS ZANELLA: Oh, did you drill holes down? Mostly clowning around, I guess; you know, joking.

MR. PHARES: Who did you discuss it with? Do you remember the names?

WITNESS ZANELLA: Just about -- I guess everybody was talking about it.

MR. PHARES: What were they saying?

WITNESS ZANELLA: Oh, they said, you know: what are you going to say; if you drilled holes down; or this and that, stuff like that.

MR. PHARES: Let me see if I understand your testimony. You are saying that there was discussion among the men as to what the men would testify, the employees, if the question was asked at these hearings this week as to the drilling of test holes; is that correct?

WITNESS ZANELLA: Yes.

MR. PHARES: Was there any discussion in particular of test holes in the low rib?

WITNESS ZANELLA: They talked about it. I think

everybody was trying to feel each other out so they would have a general idea of what would be said here.

MR. PHARES: That is all.

MR. COOK: Just one clarification. When you were working in the gangway, Mr. Zanella -- did I understand you right: that you worked in the gangway from Number 8 to Number 13 chute?

WITNESS ZANELLA: In around there.

MR. COOK: In around there?

WITNESS ZANELLA: I don't remember offhand clearly, but it was around there.

MR. COOK: Had you worked in the gangway prior to that?

WITNESS ZANELLA: From Number 3 into Number 5.

MR. COOK: You worked from 3 to 5; then you were out of the gangway for awhile. Then you came back and worked in the gangway from about Number 8 up to about Number 13?

WITNESS ZANELLA: It was either 7 or 8; right around there.

MR. COOK: It was somewhere in that vicinity, up to about Number 13?

WITNESS ZANELLA: Yes.

MR. COOK: Would there be any other questions?

(No response.)

MR. COOK: Thank you, Mr. Zanella.

MR. VICINELLY: Thank you.

(Witness excused.)

MR. COOK: At this time, we would like to call Mr. Raymond Reinoehl, please.

Whereupon,

RAYMOND REINOEHL

having been duly sworn, testified as follows:

MR. PHARES: Please state your name and spell it.

WITNESS REINOEHL: Raymond Reinoehl, R-a-y-m-o-n-d, R-e-i-n-o-e-h-l.

MR. PHARES: What is your address, Mr. Reinoehl?

WITNESS REINOEHL: 357 Preston Avenue, Girardville.

MR. PHARES: Mr. Reinoehl, before we begin the questioning, I want you to understand that this is a formal investigatory hearing.

A written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question. And you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement which you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have a right to have it clarified before you give an answer.

Do you understand the rights which I have just explained to you?

WITNESS REINOEHL: Yes, I do.

MR. PHARES: Thank you.

MR. VICINELLY: Raymond, are you employed by the Kocher Coal Company?

WITNESS REINOEHL: Yes.

MR. VICINELLY: How long have you been employed there?

WITNESS REINOEHL: Four years in March.

MR. VICINELLY: What are your duties there?

WITNESS REINOEHL: Right now or previous?

MR. VICINELLY: Previous to the breakin.

WITNESS REINOEHL: I was a miner.

MR. VICINELLY: A lead miner?

WITNESS REINOEHL: A lead miner.

MR. VICINELLY: How long have you worked in the West Skidmore section?

WITNESS REINOEHL: Ever since it started -- well, pretty near ever since.

MR. VICINELLY: What type of work were you doing in there?

WITNESS REINOEHL: We were driving breasts. And then I was on the robbing crew.

MR. VICINELLY: Do you recall what breasts you drove?

WITNESS REINOEHL: Some of them, yes.

MR. VICINELLY: Which ones? Did you drive Number 8 breast?

WITNESS REINOEHL: Yes.

MR. VICINELLY: Were you informed or instructed on a drill test hole pattern?

WITNESS REINOEHL: We were informed, but it was -- they informed us that it was Number 10 that we were going to start drilling ahead.

The maps showed that we didn't have no "worryment" till we got there.

MR. VICINELLY: Where did you first start drilling test holes?

WITNESS REINOEHL: Between the fourth and the fifth heading.

MR. VICINELLY: Between the fourth and the fifth heading, how were you drilling your test holes?

WITNESS REINOEHL: To the left, straight ahead, and a flank hole.

MR. VICINELLY: How long were the holes?

WITNESS REINOEHL: 20 foot.

MR. VICINELLY: Did you work Number 8 breast?

WITNESS REINOEHL: Yes.

MR. VICINELLY: Did you encounter any problems in the Number 8 breast?

WITNESS REINOEHL: None that we couldn't handle, no.

MR. VICINELLY: Did you have a shot that only a portion of it went off?

WITNESS REINOEHL: Did I?

MR. VICINELLY: Yes.

WITNESS REINOEHL: No, sir.

MR. VICINELLY: Do you know of any?

WITNESS REINOEHL: Yes.

MR. VICINELLY: Where was it?

WITNESS REINOEHL: The fifth heading.

MR. VICINELLY: Could you tell me what took place there?

WITNESS REINOEHL: Well, as far as I know, it was drilled, tamped; the breast was drilled and tamped. It wasn't fired in the morning; it was fired in the afternoon.

Evidently, the water was that close, it was drowning it out, the shots; it didn't work.

MR. VICINELLY: Then what did you do?

WITNESS REINOEHL: Well, when the crew come out, and the mine leader had spoken to me about it -- he said it was wet.

He said he started the test hole. So, we went in, my partners, Donny Shoffler and Ralph Renninger. We went up and we looked at it. It was wet.

We started drilling. We might have drilled another foot. We stopped. I asked Henry to go down and tell the men to get out below us, that we had water -- we think we have water. He did.

When he come back, then we drilled it through.

MR. VICINELLY: Did you encounter water?

WITNESS REINOEHL: Yes.

MR. VICINELLY: You stated that that was at Number 5 breast?

WITNESS REINOEHL: Yes, I am certain it was 5; yes.

MR. VICINELLY: Did you encounter abandoned workings?

WITNESS REINOEHL: Later on when we got it drained down, we drilled in. We knew it was abandoned workings then, yes.

MR. VICINELLY: How long did the water drain out of 5; do you know?

WITNESS REINOEHL: Out of 5?

MR. VICINELLY: Yes.

WITNESS REINOEHL: No, I don't know offhand; no.

MR. VICINELLY: I may be confused up here. Let me add to this.

When I was talking about the fifth, I said the fifth breast, or I understood you to say the fifth breast. You were talking about the fifth miner heading?

WITNESS REINOEHL: In Number 8 breast.

MR. VICINELLY: Number 8 breast?

WITNESS REINOEHL: Yes.

MR. VICINELLY: All right. I am straightened out now.

When you encountered the water, what did you do: continue to work?

WITNESS REINOEHL: After draining the water, yes -- not that night no more, no. We were sent home.

MR. VICINELLY: Do you know how long it was before the water was tapped off?

WITNESS REINOEHL: Approximately about a month till we got it drained. Now, that is not out of Number 5. We drilled down to we found the level of the gangway, that we had it drained out.

MR. VICINELLY: Then what did you do?

WITNESS REINOEHL: Then we drilled through and blew it through to see what it was.

MR. VICNELLY: When you say "blew it through," what do you mean by that?

WITNESS REINOEHL: Well, we went up between -- or, no. We went up in Number -- wait; I might be wrong. I can't even say for sure.

I think it was between the fourth and the fifth that we drove in through the rib -- no, we didn't; I am sorry about that.

The fifth heading, once we got the water drained down and out, we blew through in the fifth heading. And we seen we had a breast.

Then we dropped down into the fourth heading. We drilled there, blew that through. And we could see the level of the gangway.

MR. VICINELLY: When you blew that through, and you could see the level of the full bootleg gangway, was there any water in there?

WITNESS REINOEHL: Not that we could see no more, no.

MR. VICINELLY: Did you have sufficient drill steels to drill your holes?

WITNESS REINOEHL: Yes.

MR. VICINELLY: Were there extra ones present when you were working?

WITNESS REINOEHL: Was there extra ones?

MR. VICINELLY: Yes.

WITNESS REINOEHL: You mean after we were drilling or before we were drilling?

MR. VICINELLY: At any time during the drilling, did you run short on drill steels?

WITNESS REINOEHL: No.

MR. VICINELLY: If you broke a drill steel, were there any extra ones available to you?

WITNESS REINOEHL: Yes.

MR. VICINELLY: Those are all the questions I have.

Joe?

MR. COOK: I believe, Mr. Reinoehl, you said you started working in the gangway section of West Skidmore Gangway about the time it was started.

WITNESS REINOEHL: A little after it, yes.

MR. COOK: A little after.

Just for my clarification, the question was asked: where did you start drilling test holes?

I believe you might have said between Number 4 and 5 heading. Do you mean that is where you started drilling the test holes, in the chutes, when you reached 4 or 5 heading; or did you start drilling test holes in that section around Number 4 or 5 chute?

Where did you first start drilling test holes?

WITNESS REINOEHL: Number 8 breast.

MR. COOK: In Number 8 breast.

WITNESS REINOEHL: Between the fourth and the fifth heading.

MR. COOK: That is, as you were developing the breast, that is where you started drilling the test holes?

WITNESS REINOEHL: Yes.

MR. COOK: Had you drilled test holes prior to that time in the West Skidmore section?

WITNESS REINOEHL: No.

MR. COOK: In other words, you had not drilled any prior to Number 4 or 5 heading in the Number 8 breast?

WITNESS REINOEHL: That is right.

MR. COOK: So, as the gangway had been advancing in the monkey way, no test holes had been drilled, to your knowledge?

WITNESS REINOEHL: That I couldn't answer; I don't know nothing about it. I don't work there.

MR. COOK: All right. But in the breast, there had been none up to that point?

WITNESS REINOEHL: Not in the breast, no.

MR. COOK: Did you ever work in the gangway or the monkey way when someone was off for other reasons?

WITNESS REINOEHL: I had worked in the gangway at one time.

MR. COOK: Prior to --

WITNESS REINOEHL: No, before.

MR. COOK: Before working in the breasts?

WITNESS REINOEHL: I was in the breasts. I was down

in the gangway at Numbers 5 and 6. I worked --

MR. COOK: 5 and 6?

WITNESS REINOEHL: Yes.

MR. COOK: Were you drilling test holes at that time in the gangway?

WITNESS REINOEHL: No.

MR. COOK: Had the test hole drill pattern been started at that time anywhere in that area of the mine that you know of?

WITNESS REINOEHL: Not that I know of.

MR. COOK: What sort of safety training have you received while you have been working at the mine?

WITNESS REINOEHL: Well, we had first aid. We had inspection for gas; you have them frequently. I think it is once a year they have them and the first day, too.

MR. COOK: Had you ever traveled the escapeways to the surface?

WITNESS REINOEHL: Yes.

MR. COOK: You knew the way to escape out of the mine?

WITNESS REINOEHL: Yes.

MR. COOK: Going back to the blowing through into the old works the first time; I believe you said that was in Number 8 breast?

WITNESS REINOEHL: Yes.

MR. COOK: The shot didn't fire on the shift before you; is that correct?

WITNESS REINOEHL: Yes.

MR. COOK: Now, prior to that shift, had you worked in the breast?

WITNESS REINOEHL: Yes. We were timbering.

MR. COOK: You were timbering.

WITNESS REINOEHL: There was two shifts before I got there. We swing shifts. The last shift I worked was Friday day shift.

So, we had a Friday night shift, and then that night shift went day shift. So, there was two shifts before I --

MR. COOK: Two shifts in between?

WITNESS REINOEHL: Yes.

MR. COOK: Had you all drilled test holes on the last shift that you worked in there prior to the --

WITNESS REINOEHL: No. We weren't drilling. We were timbering from 4 to 5.

MR. COOK: How often do you -- in other words, you rotate from the day shift to the evening shift; how often do you do that? Every two or three weeks or a month?

WITNESS REINOEHL: A week a bout.

MR. COOK: A week a bout?

WITNESS REINOEHL: Yes.

MR. COOK: You work the evening shift one week and

the day day shift the next?

WITNESS REINOEHL: Yes.

MR. COOK: Those are all the questions I have.

MR. VICINELLY: Jim?

MR. SHOBER: How many drill holes did you use on your pattern daily when you were working in the pitch?

WITNESS REINOEHL: Three.

MR. SHOBER: Three.

While discussing this at any time with anybody that worked in the West Skidmore Gangway, was their pattern similar?

WITNESS REINOEHL: As far as I know.

MR. SHOBER: Now then, if the face ever became damp at any time, were the company officials notified --

WITNESS REINOEHL: Yes.

MR. SHOBER: -- and advised that the coal had changed from dry to wet?

WITNESS REINOEHL: Yes.

MR. SHOBER: Did you ever drill test holes at more than one working face on any one shift?

WITNESS REINOEHL: Yes.

MR. SHOVER: In other words, when you were working in the pitch workings, did you ever drill the face that you had, normally work that, and another; that is, test holes?

WITNESS REINOEHL: Yes. If they weren't in far

enough or deep enough, we drilled another one, if we thought they weren't.

MR. SHOBER: Now, then, as far as length or depth goes, Raymond, did you use the 20-foot depth at all times?

WITNESS REINOEHL: Yes.

MR. SHOBER: Did you have enough steel to go beyond that any time if need be?

WITNESS REINOEHL: Yes.

MR. SHOBER: That is all.

MR. VICINELLY: Jack?

MR. TISDALE: Yes, Mr. Vicinelly.

I want to ask you about the drilling in Number 8 breast after the place didn't pull and you found out that it was wet. You sent word down to the other people to leave, and then you went up and finished drilling the hole through.

WITNESS REINOEHL: Yes.

MR. TISDALE: At that time, who was with you?

WITNESS REINOEHL: Donny Shoffler and Ralph Renninger.

MR. TISDALE: Was one of the section foremen with you when you drilled that hole through?

WITNESS REINOEHL: Not at that time. It was just starting on -- it was right when we went inside, as soon as we went up.

MR. TISDALE: Did that hole drain until the water

was out, or did you drill another hole to drain it more?

WITNESS REINOEHL: We drilled more holes. We drilled all the way down through till we had it all drained. It only drained to the level of the hole.

MR. TISDALE: Right. And how long did it take to drain the first hole?

WITNESS REINOEHL: I really don't know. I don't know if it was a day or if it was two days or what it was. I don't remember.

MR. TISDALE: How long was the mine idle while that hole was being drained?

WITNESS REINOEHL: It wasn't idle; it was just our shift in the Skidmore went home that evening. Well, the next day, I believe that shift was off, too. And we come out second shift. Then we started drilling.

MR. TISDALE: You started drilling down the --

WITNESS REINOEHL: Down along the rib, yes.

MR. TISDALE: Down the rib into the old works?

WITNESS REINOEHL: Yes.

MR. TISDALE: Did the water have much head on it?

WITNESS REINOEHL: Enough.

MR. TISDALE: Did it wash out the holes any?

WITNESS REINOEHL: It washed them out, yes, a bit.

MR. TISDALE: Have you been trained in the use of the self rescuer?

WITNESS REINOEHL: Yes.

MR. TISDALE: I have no further questions.

MR. VICINELLY: Dennis?

MR. STRAIN: Mr. Reinoehl, prior to encountering the water in the old workings, had you been drilling any test holes ahead?

WITNESS REINOEHL: No.

MR. STRAIN: So, it was after that that you started drilling the holes?

WITNESS REINOEHL: After we found water, yes.

MR. STRAIN: Do you know if anybody else was drilling test holes at that time?

WITNESS REINOEHL: I wouldn't know.

MR. STRAIN: Had anybody talked about it?

WITNESS REINOEHL: Not that -- I don't remember about any talk; I don't know.

MR. STRAIN: Had the section foreman ever talked to you about test holes?

WITNESS REINOEHL: When we were talking, yes. Mr. Merwine; we had discussed it with him. And he agreed that we should be drilling them.

That is when we thought we might have water or maybe there would be water around. We weren't sure.

As far as we knew, the map showed Number 10 is where we should start drilling. Evidently, it wasn't. The

maps mustn't have been right or something.

MR. STRAIN: Did you talk to Mr. Merwine about this after you had cut into the old workings?

WITNESS REINOEHL: No, before. It was a week before that we talked about it. And we got the steels off of him. He is the one that ordered them.

MR. STRAIN: But you hadn't started drilling that?

WITNESS REINOEHL: No. I think the day we mentioned it to him, I believe that day, the second shift started drilling.

We were day shift at that time.

MR. STRAIN: And that was a week before you cut into the old workings?

WITNESS REINOEHL: I believe it was, yes.

MR. STRAIN: So, you had been drilling before you cut into those workings?

WITNESS REINOEHL: Yes.

MR. STRAIN: How long was the hole that finally entered the old workings?

WITNESS REINOEHL: About 12; it might have went 14. I am not sure. And that was after three, maybe four, cuts. We usually don't count the first cut when we start a heading.

And there was two; there would have been three out of it. So, it could have been four cuts and 12 or 14 feet yet from the breast.

MR. STRAIN: 12 or 14 feet from the breast?

WITNESS REINOEHL: From the heading; that is off the breast.

MR. STRAIN: How deep were the test holes that you were using?

WITNESS REINOEHL: 20 foot.

MR. STRAIN: Why didn't your 20-foot test hole go into the old workings?

WITNESS REINOEHL: Because it wasn't far enough. If you drilled it from the breast, the old workings were further than that.

MR. STRAIN: Were you only drilling the test holes on the breasts?

WITNESS REINOEHL: No. The left rib, flank hole, and straight ahead in the breast.

MR. STRAIN: How about when you were driving headings, were you using flank holes then?

WITNESS REINOEHL: That is the first heading we had after we started drilling ahead.

We only started from 4 to 5, and we found it in 5. In Number 5, I didn't drill no holes in there, because it was the first cut, and we had flank holes under it, in the bottom coal.

The only cut we had fired was the first one, till we got back on where we turned second shift.

But there was holes drilled under it, and it was in the bottom coal, which would have never reached it, because they didn't take the bottom coal, the bootleggers.

MR. STRAIN: Is your testimony, then, that your drill holes never encountered these old workings, either the bottom coal or the top coal?

WITNESS REINOEHL: No.

MR. STRAIN: Your test holes didn't do that?

WITNESS REINOEHL: No.

MR. STRAIN: When you were traveling up the breast, how far into the rib did your flank holes go?

WITNESS REINOEHL: 20 feet.

MR. STRAIN: Did you drill straight into the rib or at an angle?

WITNESS REINOEHL: In the rib, straight in; the flanker would be on an angle; and the breast would be straight.

MR. STRAIN: Well, when you were drilling Number 5 heading, at that time you drilled straight ahead with the test holes?

WITNESS REINOEHL: Not in the fifth. We had one right under the fifth. We had holes under 20 feet.

MR. STRAIN: 20 feet straight to the rib and 20 feet on the flank?

WITNESS REINOEHL: Straight, flank; and straight ahead.

MR. STRAIN: All right. Exactly where were those holes that were straight ahead, that were under the fifth?

WITNESS REINOEHL: The holes that were straight ahead?

MR. STRAIN: Right.

WITNESS REINOEHL: There was one in the rib and one in the face of the breast.

MR. STRAIN: All right.

Right before you drilled into these old workings, had the shot been fired at that time?

WITNESS REINOEHL: At that time, on the day shift, as far as I know, there was no shots fired on our shift.

MR. STRAIN: There were no shots fired on your shift?

WITNESS REINOEHL: No.

MR. STRAIN: I think you testified that the hole was tamped -- the breast was loaded and tamped, but it wouldn't fire.

WITNESS REINOEHL: It was fired, I said. It didn't work.

MR. STRAIN: It was fired, and it didn't -- this is the breast?

WITNESS REINOEHL: The heading.

MR. STRAIN: The heading.

WITNESS REINOEHL: The breast worked.

MR. STRAIN: Who had set that blast?

WITNESS REINOEHL: One of them on the day shift.

MR. STRAIN: Who had tried to fire it?

WITNESS REINOEHL: Well, that I don't know. There was three of them on there. It had to be either one of the three.

MR. STRAIN: But somebody on the day shift told you that the shot had not fired?

WITNESS REINOEHL: Yes, the lead miner had told me about it.

MR. STRAIN: Do you know if he had also talked to the section foreman about that?

WITNESS REINOEHL: This I don't know.

MR. STRAIN: Did you talk to the section foreman about it?

WITNESS REINOEHL: Not then, no. We were going inside. We got the section foreman as soon as we seen what was going on.

MR. STRAIN: What did he say?

WITNESS REINOEHL: Well, he chased everybody out of the mine in that section; they went home.

MR. STRAIN: He chased everyone --

WITNESS REINOEHL: Well, he didn't chase them out; he told us that we weren't going to work there now.

MR. STRAIN: Did you notify the foreman before you

drilled into the old workings or afterwards?

WITNESS REINOEHL: When we stopped and notified the men, I believe Ralph had told one of them: go down and get their section foreman. He was in a different section of the mine.

In the meanwhile, we went back and drilled the hole through. Till he got up, we had it drilled through.

MR. STRAIN: You mean, as soon as you got in there, you went and notified the section foreman?

WITNESS REINOEHL: No, I didn't.

MR. STRAIN: You first drilled your hole?

WITNESS REINOEHL: That is right. We went up and started to drill it.

MR. STRAIN: Then what happened?

WITNESS REINOEHL: Well, we stopped and notified the men.

MR. STRAIN: When you told the section foreman about encountering the water, did you also tell him about the misfired shot?

WITNESS REINOEHL: Yes.

MR. STRAIN: Did he say anything at that time?

WITNESS REINOEHL: Not that I can remember. I don't know what he said. It has been that long. I don't know.

MR. STRAIN: You stated that one week prior you had been talking to Mr. Merwine about finding abandoned workings.

WITNESS REINOEHL: About?

MR. STRAIN: About looking for water in abandoned workings.

WITNESS REINOEHL: Yes, we had mentioned it to him; yes.

MR. STRAIN: Where were you looking for them?

WITNESS REINOEHL: Between the fourth and the fifth heading; in the left rib, flank hole, and straight ahead.

MR. STRAIN: And that is where you found them? Did you expect to find them any other place?

WITNESS REINOEHL: No.

MR. STRAIN: Did he think they were going to be above you rather than below you?

WITNESS REINOEHL: They couldn't be below us; we come up through there.

MR. STRAIN: Did anyone discuss using longer holes than 26-foot holes?

WITNESS REINOEHL: If we thought it was necessary, yes.

MR. STRAIN: How often do you do that?

WITNESS REINOEHL: Once in awhile in a flank hole, if there was more water than we thought it should be; normally, we did.

MR. STRAIN: How deep did you go?

WITNESS REINOEHL: 26; maybe 30 feet if we got them

in.

MR. STRAIN: Wouldn't that be difficult?

WITNESS REINOEHL: At times, it is, yes.

MR. STRAIN: Did you ever have the steels stick in the flank?

WITNESS REINOEHL: Yes.

MR. STRAIN: Then what would you do?

WITNESS REINOEHL: Twist them out by hand.

MR. STRAIN: Well, could you go any deeper after that?

WITNESS REINOEHL: At times, yes, if you clean them right.

MR. STRAIN: Have you had a meeting before today with company officials about your testimony here?

WITNESS REINOEHL: No.

MR. STRAIN: You had no meeting at all at the mine?

WITNESS REINOEHL: Only that we were going to have to appear here; that is about it.

MR. STRAIN: What was said at that meeting?

WITNESS REINOEHL: Only that we just had to testify about the mine, about the flood, which I don't know nothing about, because I wasn't there at that time, this last one.

MR. STRAIN: Did anyone talk to you about drilling holes?

WITNESS REINOEHL: No.

MR. STRAIN: Did you hear anybody else talking about drilling holes?

WITNESS REINOEHL: When are you talking about? Up at the mine just lately now?

MR. STRAIN: Right.

WITNESS REINOEHL: Well, I don't quite follow you on that.

MR. STRAIN: Well, had you heard any discussion at the mine about drilling holes?

WITNESS REINOEHL: When are you talking about?

MR. STRAIN: Just recently.

WITNESS REINOEHL: Not that I know of. No, I didn't hear nothing.

MR. STRAIN: All right. That is all.

MR. VICINELLY: Jack?

MR. TISDALE: No.

MR. VICINELLY: Bob?

MR. PHARES: I have no questions.

MR. VICINELLY: Thank you, Raymond.

MR. COOK: Thank you, Mr. Reinoehl.

(Witness excused.)

MR. COOK: That will conclude the witnesses that we will call from the hourly employees on the second shift.

We have one other witness that we wanted to call this morning who has just arrived, which will complete the witnesses or people who knew about or had knowledge about the old abandoned workings. So, at this time, we would like to call Mr. Ray Bush.

Whereupon,

RAY BUSH

having been duly sworn, testified as follows:

MR. PHARES: Would you please state your name?

WITNESS BUSH: My name is Ray Bush.

MR. PHARES: What is your address, Mr. Bush?

WITNESS BUSH: Tower City, R.D.

MR. PHARES: What is your current occupation?

WITNESS BUSH: Electronics instructor.

MR. PHARES: Mr. Bush, before we go any further in the questioning, I want you to understand that this is a formal investigatory hearing.

A written transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any questions, and you may refuse to answer any question until you have had an opportunity to consult with counsel

of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offense.

You should understand that any statement that you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have the right to have it clarified before you give an answer.

Do you understand the rights as I have just explained them to you?

WITNESS BUSH: Yes.

MR. PHARES: I am sorry. I jumped the gun on the first question.

What is your current occupation?

WITNESS BUSH: Electronics instructor.

MR. PHARES: Where are you employed?

WITNESS BUSH: Harrisburg.

MR. PHARES: Who is your employer?

WITNESS BUSH: Bill Margut, M-a-r-g-u-t.

MR. PHARES: What type of an institution is it that you teach electronics?

WITNESS BUSH: It is a private school.

MR. PHARES: Mr. Bush, who was your father?

WITNESS BUSH: My father was Clayton Bush.

MR. PHARES: Did Clayton Bush of ever operate a coal mine?

WITNESS BUSH: Yes, he did.

MR. PHARES: Does the dead operation have any name?

WITNESS BUSH: I understood -- I would not swear to this; but I understood it was the Bush Coal Company.

MR. PHARES: Who owned this operation?

WITNESS BUSH: I was owned by several people, five people.

MR. PHARES: Tell us who the five people were.

WITNESS BUSH: My father, Ira Bush, Roy Bush, Paul Bush, Albert Bush. Is that five? I believe I did mention five.

MR. PHARES: Where was this mine located?

WITNESS BUSH: In what was known as Coon's Hollow, in Good Spring.

MR. PHARES: Do you know when that operation began?

WITNESS BUSH: October of '39.

MR. PHARES: Were you ever employed at that mine?

WITNESS BUSH: I was not employed, no.

MR. PHARES: Were you ever in that mine?

WITNESS BUSH: Yes, I was.

MR. PHARES: When was the first time that you were in that mine?

WITNESS BUSH: November of '39.

MR. PHARES: Approximately how often were you in the mine?

WITNESS BUSH: Oh, at least 20 or 30 times.

MR. PHARES: What was the occasion of you being in the mine 20 or 30 times?

WITNESS BUSH: Curiosity and interest. I was only 11, 12, 13 years of age at the time. I couldn't really do much in the line of work.

MR. PHARES: Did you perform any labor at all in the mine?

WITNESS BUSH: I performed some. I was assigned watching pumps and jobs like this; but I was not employed.

MR. PHARES: What parts of the mine were you in?

WITNESS BUSH: I was in just about all the parts, I could say, until the mine was sold.

(Whereupon, the document was marked as Panel Exhibit No. 9, for identification.)

MR. PHARES: Mr. Bush, I am going to hand you a piece of paper that has been marked as Exhibit Number 9, and ask you if you can identify it.

(Document handed to Witness Bush.)

WITNESS BUSH: Yes, I can.

MR. PHARES: Would you please tell us what that is?

WITNESS BUSH: This is a map that I drew of how I think this mine was up until it was sold.

MR. PHARES: Did you draw that from memory?

WITNESS BUSH: Yes, I did.

MR. PHARES: Who did you give it to?

WITNESS BUSH: I gave this to Mr. Shutack.

MR. PHARES: When did you give that to him, if you remember?

WITNESS BUSH: I could say approximately two weeks ago. I wouldn't remember the date, two or three weeks ago.

MR. COOK: I wonder if we could have the overlay set up.

(Mr. Rogers complying.)

MR. PHARES: Could that be marked Exhibit Number 10?

(Whereupon, the document was marked as Panel's Exhibit No. 10 for identification.)

MR. PHARES: Mr. Bush, have you seen this overlay prior to today?

WITNESS BUSH: No, I have not seen this particular one; no.

MR. PHARES: This drawing that has been marked as Exhibit Number 10, does this coincide, in the major points, with your drawing?

WITNESS BUSH: Yes, it does.

MR. PHARES: I am going to turn the questioning over to Mr. Cook at this time.

MR. COOK: Mr. Bush, as the overlay there shows, there are four levels of workings. That is the way -- as best you recall, there were four levels turned off the main slope?

WITNESS BUSH: No, sir. I remember it as five.

MR. COOK: As five?

WITNESS BUSH: Yes.

MR. COOK: I believe the overlay might show four there.

WITNESS BUSH: Well, there is one level up above your top level.

MR. COOK: All right; so, one above that.

WITNESS BUSH: That was stripped.

MR. COOK: That was stripped. All right, sir.

As you recall, how deep was the slope?

WITNESS BUSH: I was told by a reliable source it was 800 feet.

MR. SAVIT: Mr. Chairman, can we enter an objection on the record that we object to the exhibits,as we did with the other ones?

MR. COOK: It is noted for the record that you object to the exhibits.

In your recollection of the 800 feet, what was your source of information there?

WITNESS BUSH: My father.

MR. COOK: You said that you were in most all the parts of this mine at one time or another?

WITNESS BUSH: Yes.

MR. COOK: Was there a sump at the bottom of the

slope?

WITNESS BUSH: At the very bottom?

MR. COOK: Yes, sir.

WITNESS BUSH: Yes.

MR. COOK: How deep was the sump?

WITNESS BUSH: About 30 feet.

MR. COOK: Do you recall about how far it was from the main slope over to the old Weaver Mine?

WITNESS BUSH: 300 -- from my dad's slope to the Weaver's slope it was 320 feet.

MR. COOK: Then, to the west of your father's slope, about how far was it to the Miller Mine?

WITNESS BUSH: About 300.

MR. COOK: About 300. How deep -- was the first level cut into the old Weaver Mine?

WITNESS BUSH: The first level did, yes.

MR. COOK: Was it cut into the old Miller Mine?

WITNESS BUSH: I am sure it was; but I wouldn't swear to it.

MR. COOK: Was the second level cut into the old Weaver Mine?

WITNESS BUSH: Yes.

MR. COOK: Was it cut into the old Miller Mine, on the west?

WITNESS BUSH: There, I could not say for sure.

MR. COOK: About how far was the third and fourth levels driven in?

WITNESS BUSH: The third and fourth level on --

MR. COOK: Towards the east of your father's slope.

WITNESS BUSH: To the east, that would be toward Miller's -- no, no, toward Weaver's.

MR. COOK: Toward Weaver's, yes, sir.

WITNESS BUSH: And which levels was this?

MR. COOK: Three and four.

WITNESS BUSH: Three and four; about 160 feet.

MR. COOK: How many chutes or breasts were turned off of those levels?

WITNESS BUSH: Roughly, three on each side.

MR. COOK: Did you rob the pillars?

WITNESS BUSH: Yes, they -- all but the slope pillar.

MR. COOK: All but the slope pillar.

The fifth and bottom level, as you would recall, about how far was it drive in?

WITNESS BUSH: When I was on that level the last time, they had gangways driven about 100 feet on each side.

MR. COOK: Would your father have -- you say when you were there last, would your father have worked it much after you were in there last?

WITNESS BUSH: At least six weeks; but I would say

longer.

MR. COOK: At least six weeks; but longer. What would you estimate that the depth of that gangway would have been?

WITNESS BUSH: Which one?

MR. COOK: The bottommost gangway; could you estimate about what their daily production was, as you last saw it?

WITNESS BUSH: Well, they customarily drilled breasts as soon as they could, you know, when they were in 50 feet from the slope. They started their breasts right away. There, I couldn't even give you an educated guess, because I was not there. I know it was worked for several weeks after the last time I was down; but how far they went or if they were working in one gangway alone, I have no idea. I have no way of telling.

MR. COOK: But, to the best of your knowledge, it was in about 100 feet, at least?

WITNESS BUSH: Each way.

MR. COOK: Did your father pay, to your knowledge, royalty to anyone for the coal?

WITNESS BUSH: I think he did; but, again, I can't -- I have no way of knowing this for sure. If royalty was paid at that time, I'll put it that way, then he surely did.

MR. COOK: Do you know who would have owned the

coal at that time?

WITNESS BUSH: Who would have owned the coal?

MR. COOK: Yes, sir.

WITNESS BUSH: That he was mining?

MR. COOK: Yes, sir.

WITNESS BUSH: As I understand, it was on Reading Company ground; but I am not sure.

WITNESS BUSH: Did they own the surface rights, also, the Reading Company -- who owned the surface rights? That would be the surface that was above the mine.

WITNESS BUSH: I don't know.

MR. COOK: What did your father and the other partners in the mine do with the mine -- or, it is my understanding that they opened the mine around 1938 and worked it until around 1943; is that correct.

WITNESS BUSH: '39 is when they opened it, I think; but I am not sure that they closed around the spring of '44. That closing date--they didn't close; they sold. That date they sold, I am not sure of; but it was around there somewhere.

MR. COOK: Who did they sell their coal to?

WITNESS BUSH: I remember them selling it to a coal processor named Star. I believe he was in Valley View. They sold it to Westwood for some time; and there is -- I don't know if they are still in existence or not -- an outfit by the name of Correal. I know they sold to them.

These are the only ones that I know of. I know they must have sold to other people; but them are the three that I can remember.

MR. COOK: Who did your father and his partners sell the mine to?

WITNESS BUSH: I don't know.

MR. COOK: Had you heard discussed who purchased the mine?

WITNESS BUSH: I know it was sold, but, I mean, I don't have the slightest idea of the name of the party that bought it. I do know that it was sold; but I don't recall who it was. In fact, I don't remember the name being mentioned who it was sold to, or I probably would have remembered it.

MR. COOK: Was the mine worked any after your father sold it, to your knowledge?

WITNESS BUSH: For a short while.

MR. COOK: For a short while?

WITNESS BUSH: Yes.

MR. COOK: To your knowledge, what type of work was done in the mine?

WITNESS BUSH: After it was sold?

MR. COOK: After it was sold, yes.

WITNESS BUSH: They attempted to take out the slope pillars; but there was too much water. They were chased up several levels before they really got started.

MR. COOK: As you told us, they were chased up the slope by water; do you recall who "they" were?

WITNESS BUSH: Yes, John Deiter, George Reichert. As I understand it, they worked down in the mine; and there was a man by the name of Smeltz -- his first name, I am not sure of -- there were three of them. I know John Deiter worked inside the mine, and I believe that George Reichert worked with him; or either it was John Deiter in the mine and Smeltz working in the mine, the three of them.

MR. COOK: Would any of these three men be alive today?

WITNESS BUSH: No, sir.

MR. COOK: Prior to March 1st of this year, had anybody approached you on obtaining information about this old mine, the depth of the mine, how many levels were turned off? That was prior to the inundation.

WITNESS BUSH: No, sir, no one has; but, for the record, I would like to say that I spent 20 years in the Air Force. At the time that someone may have been collecting information, it could have very possibly been the case that I was not available.

MR. COOK: What periods were you in the Air Force, that 20 years?

WITNESS BUSH: '45 to '66.

MR. COOK: Up through '66?

WITNESS BUSH: Yes.

MR. COOK: You have been in this area since 1966?

WITNESS BUSH: Yes.

MR. COOK: Mr. Vicinelly?

MR. VICINELLY: Put Exhibit 3 up there, please.

(Mr. Rogers complying.)

MR. VICINELLY: That exhibit, Mr. Bush, shows the abandoned workings of the Weaver Mine and the Bush Mine, what was surveyed above the first level, if you are not familiar with it.

When you look at the Bush Mine, there is a branch-off there. One goes to the east and one goes to the west.

Where would that Exhibit 10, which we were looking at prior to this, tie into one of those slopes, do you know?

WITNESS BUSH: Are you talking about the dashed-slope or the solid-line slope?

MR. VICINELLY: Yes.

WITNESS BUSH: It would tie into the solid-line slope.

MR. VICINELLY: The solid-line slope?

WITNESS BUSH: Yes. That dashed-slope is incorrect.

MR. VICINELLY: How did you determine that, or how do you have that knowledge?

WITNESS BUSH: That dashed-line slope was the original slope, which went down 160 feet, give or take 10 or

15 feet. On that slope -- when they first started that mine, the pitch of the vein was only about 10 or 15 degrees, and they had difficulty determining if they were on pitch or off pitch.

When they got down to about 110 feet, 105, 110, in around there, they got more pitch. At this time, they seen that they were going across the pitch. So, they finished that level, went down around 130 feet with that first level, plus about 30 foot for a sump and worked that; but, in the process of driving breasts, they reserved some room to straighten up their slope.

That curve that you see right near the top , and the solid line is the slope. That dashed line goes down about 160 feet and stops; that is, 160 feet from the surface.

MR. VICINELLY: When you said that the east slope to the Bush Mine went down to about 110 feet-- I believe that you said that; if I am not correct, correct me -- were you talking 110 feet from the opening or 110 feet from the first level?

WITNESS BUSH: Do you mean when they hit the heavier pitch?

MR. VICINELLY: Well, the maximum distance that it was driven down.

WITNESS BUSH: Oh, that slope, that dashed-slope was down no more than 160 feet.

MR. VICINELLY: From the opening?

WITNESS BUSH: From the surface.

MR. VICINELLY: From the surface?

WITNESS BUSH: Yes.

MR. VICINELLY: Could we have the other overlay?

MR. PHARES: Could we have the other overlay brought up?

(Mr. Rogers complying.)

MR. PHARES: Could you remove the white piece of paper that is underneath the overlay?

(Mr. Rogers complying.)

MR. VICINELLY: I think you stated that you were 11, 12 or 13 years old when you went into the coal mine?

WITNESS BUSH: Yes.

MR. VICINELLY: Is that the first time that you worked in it or had been in the coal mine?

WITNESS BUSH: That was the first time that I had been in one, yes, that mine.

MR. VICINELLY: After your dad closed that mine, did you work in a coal mine after that?

WITNESS BUSH: I worked in the coal mine less than a year altogether. I worked at the Calmey Mine in '45.

MR. VICINELLY: How long did you work in the Calmey Mine?

WITNESS BUSH: About five or six months.

MR. VICINELLY: The information that you are giving

us is what you recall your dad telling you. The bottom or the lower gangway, did you have knowledge of the breasts going up, or was that information which you obtained from your father?

WITNESS BUSH: Well, the only thing that I know for certain on the bottom level that I saw was that I was to the bottom level, and the last time I was there they were in approximately 100 feet with each gangway.

Shortly after this, they started a breast; they ran into gas and my dad would not let me down on the lower level no more on account of the gas problem; but he did drive some breasts on that level, I am certain.

MR. VICINELLY: That is all I have.

MR. COOK: Mr. Shober?

MR. SHOBER: Ray, can you remember, when you dad was operating that mine, what the depths of the slant slopes may have been that were used as sumps along the main slope?

WITNESS BUSH: The depths of the sumps, they were 30, 40 feet, roughly, in that vicinity.

MR. SHOBER: The water that was encountered in this mine, was it pumped directly to the surface or was it pumped to abandoned mines in the immediate area?

WITNESS BUSH: It was channeled to the surface, through inside dams, up the slope.

MR. SHOBER: The pumps were in tandem, from one

pump to the other and then up to the surface?

WITNESS BUSH: Right.

MR. SHOBER: That is all I wanted.

MR. COOK: Mr. Tisdale?

MR. TISDALE: You probably said this before, Mr. Bush, and I missed it; but how deep was the total slope from the surface?

WITNESS BUSH: My father had told me it was 800 feet. He was working there up until almost the last, and he knew about the most about it.

MR. TISDALE: Those hatched areas on the map, what do they represent?

WITNESS BUSH: Faults.

MR. TISDALE: Is that an absence of coal?

WITNESS BUSH: It was coal down to about one-half, one-and-a-half, two foot in thickness, where they had to take up rock to get through.

MR. TISDALE: How did they maintain ventilation through the faults?

WITNESS BUSH: Through the faults; well, they holed into Weaver's Mine at the various levels on down through; but on their last level is when they hit their gas problem.

Weaver's had closed, and Miller's had closed, and they had no other airhole out, so they put a fan system down the slope, pipe and plumbing down the slope, with a fan pushing

air down the slope as well a return up the slope.

MR. TISDALE: Were you ever in the mine after it was sold?

WITNESS BUSH: No.

MR. TISDALE: Did you ever visit the property after it was sold?

WITNESS BUSH: Not right there. I was maybe 500 feet away, at the closest, but never right at the mine.

MR. TISDALE: Do you think you could find the surface opening of the mine today?

WITNESS BUSH: Well, it is stripped and backfilled; but I could find where it should be.

MR. TISDALE: I don't have any more questions.

MR. COOK: Mr. Strain?

MR. STRAIN: No questions.

MR. COOK: Mr. Phares?

MR. PHARES: Mr. Bush, you testified that you spent some time watching pumps in the mine. Was there any other labor that you performed in the gangways?

WITNESS BUSH: Yes. I helped to load coal wagons in the gangway. It depended on if they were working double shift at the time, if there was space to work.

If they were driving gangways, there was only space for four people to work at any one time, as far as shoveling coal.

If they were working double shift, like they did when the started the gangways, and there was only two men on a shift inside, why, then, I had a chance to shovel coal.

If they were timbering, I could help to shovel. It was not full-time, though.

MR. PHARES: Is that what you were doing on the bottom level?

WITNESS BUSH: I was helping to load coal on the bottom level once or twice.

MR. PHARES: You testified that your father told you how deep the slope was. How do you happen to remember that; is there any specific way that you remember that?

WITNESS BUSH: The depth?

MR. PHARES: Yes.

WITNESS BUSH: Well, to tell you the truth, at that time, coal mining was about the only thing around here. I was a pretty young trouper at the time, and I looked forward to that being the only livelihood that I would ever have; so my father and his brother, who were the miners in that slope, were noted to be two of the top miners around this area, and I just thought that I had better learn all I can while I can. I mean, I was completely interested in the mine all the way from start to finish. For this reason, having maximum interest, I think is the reason I retained this information on it.

MR. PHARES: Referring to the overlay that is

before you, does that overlay differ in any way from the details that you remember of the old workings?

WITNESS BUSH: No. I remember it as that way. The only thing I am in doubt about is the distance of them gangways and the overlay to the left.

I think they were driven that distance; but I am not certain. To the best of my knowledge, it seems like they were driven that distance.

The rest of it is accurate.

MR. PHARES: The gangway to the left would be the opposite direction from the Porter Tunnel Mine; is that correct?

WITNESS BUSH: That is right; yes.

MR. PHARES: You mentioned the three individuals who were working in the mine after Bush sold out the operation.

WITNESS BUSH: Yes.

MR. PHARES: Had those individuals ever worked in the Bush Mine?

WITNESS BUSH: Yes, all three of them.

MR. PHARES: Do you have any knowledge of whether or not they, in fact, owned the mine after the Bush operation was sold?

WITNESS BUSH: Well, this is a mystery. I don't -- I can't really recall what the deal was. I know them three men worked there; but what their relationship was to the

ownership of the mine, I can't really say, because I would only be guessing.

MR. PHARES: Do you have any other firsthand knowledge of these old workings that you believe would help the panel in their investigation? Is there anything else that you can add to your testimony?

WITNESS BUSH: Well, I can say that the Miller Mine, which is the next one to it, if this gangway is continued to be driven in that direction, I think there is another body of water there, which is quite dangerous, I guess, depending on how you hit, I should say; but there is water to be tapped. That would be further west. I would say there is a dangerous amount of water there.

MR. PHARES: Do you have any knowledge of where the three miners who were operating the mine after the Bush operation ended got the money to -- which was used to purchase the mine?

WITNESS BUSH: I don't even know if they owned it, to tell you the truth. I know that the mine was sold; I am certain of this.

MR. PHARES: Do you know how much it was sold for?

WITNESS BUSH: $300.

MR. PHARES: I have no further questions.

MR. COOK: Just one more question, please, Mr. Bush; a little bit on the question of the details of the slope.

How wide was the slope?

WITNESS BUSH: The slope was about 9, 10 foot wide.

MR. COOK: The coal seam thickness in that area -- about how thick was the seam?

WITNESS BUSH: Which area is this?

MR. COOK: I was thinking that as you go down the slope -- and I am sure it varies as you go down -- what would the variance be in the coal seam there, just minimums and maximums.

WITNESS BUSH: The maximum was 18 foot, which occurred right below that last fault, I imagine the one that you are concerned with mostly. It was 18 foot as soon as you come out of that fault. In other words, this fault, the coal was thin and it just fanned out like so, 18 foot. It was a minimum, below that fault, of about 12 foot. From there on up it was, well, let's say an average of 10 foot.

MR. COOK: Yes.

Mr. Vicinelly?

WITNESS BUSH: Except in the faults; there, it was a foot, a foot-and-a-half.

MR. VICINELLY: When your father was operating that mine, was he under lease. I believe you said that Reading Anthracite owned the mine or owned the property?

WITNESS BUSH: Yes.

MR. VICINELLY: Was he under lease, do you know?

WITNESS BUSH: I don't know. The only thing I could say there was, if the other people were, he probably was also; but I don't know of any.

MR. VICINELLY: What "other people" worked; I don't understand.

WITNESS BUSH: Well, there were independent miners all over the mountain at that time. In other words, every vein on the mountain, you might say, there was a mine and another one and another one. In other words, there were hundreds of independent mines on the mountains at the time that this was being worked. Whatever the system was at that time, I am sure that my father was doing the same thing.

MR. VICINELLY: Did he ever tell you anything about a lease?

WITNESS BUSH: I cannot recall anything about a lease.

MR. VICINELLY: Did he ever mention how far -- the extent of the property that he was mining or that he had approval to mine?

WITNESS BUSH: He had 150 feet on each side of his slope to mine. Now, I don't know where he got this from.

I know the other miners, you know, the other coal mines, had 150 feet each, and he had 150 on each side of his slope. What established this, I don't know.

MR. VICINELLY: When you say that he sold the mine,

did he sell the mine or the equipment?

WITNESS BUSH: He sold the mine without the equipment, except for the equipment to continue to -- in other words, these other people were going to take out the slope pillars. They bought the wagons, the track down the slope; all of this went in with the $300. Whatever was loose and was not needed for this finishing operation, he took.

MR. VICINELLY: Your dad took?

WITNESS BUSH: Yes, the pumps, this type of thing.

MR. VICINELLY: No more questions.

MR. COOK: Just one question, that might clear up the record a little bit.

You indicated that the overlay there is essentially as you had presented to some MESA official. The slant slope to the far right, is that slope shown to be a little farther than you remember it? I think you have already entered this in the testimony.

WITNESS BUSH: Yes, that is much farther than it should be. In fact, that should be terminated up 100 feet above that top fault -- no,70 feet above that top fault.

MR. COOK: So, it really did not go down to the second level?

WITNESS BUSH: No, just the first level and the sump, 30 foot. That was it.

MR. COOK: As shown here, that slope is projected

too far down?

WITNESS BUSH: Yes.

MR. COOK: All right, sir.

Thank you, Mr. Bush. That will be all.

(Witness excused.)

MR. COOK: That concludes the witnesses that we wanted to call who may knowledge of the abandoned mines.

At this time, let's take a 15-minute recess and come back at 4:30.

(Recess.)

MR. COOK: The hearing will now come to order, please.

At this time, we would like to start with the witnesses from the company.

At this time, if Mr. Sam Klinger would come forward, please.

Whereupon,

SAMUEL F. KLINGER

having been duly sworn, testified as follows:

MR. PHARES: Please state your name for the record.

WITNESS KLINGER: Samuel F. Klinger, K-l-i-n-g-e-r.

MR. PHARES: What is your address, Mr. Klinger?

WITNESS KLINGER: R.D. 1 Ashland, Pennsylvania.

MR. PHARES: Mr. Klinger, before we begin the questioning, I want you to understand that this is a formal

investigatory hearing. A transcript is being made of the statements taken.

You have the right to have counsel present while you are testifying. You may consult with counsel before answering any question , and you may refuse to answer any question until you have had an opportunity to consult with counsel of your choice.

You also have the right not to make any statement which might lead to your conviction of any state or federal offence.

You should understand that any statement that you make can be used against you in any court action arising out of this matter.

If you do not understand a question, you have the right to have it clarified before you give an answer.

Do you understand the rights as I have just explained them to you?

WITNESS KLINGER: I do.

MR. PHARES: For the record, could we have the entrance of the appearance of counsel?

MR. SHAFFER: Allen Shaffer, of the law firm of Shaffer and Kleinman.

MR. PHARES: Thank you.

Mr. Vicinelly?

MR. VICINELLY: Sam, are you employed by the

Kocher Coal Company?

WITNESS KLINGER: Yes, I am.

MR. VICINELLY: How many years have you worked in the anthracite mines?

WITNESS KLINGER: Oh, approximately 30 years.

MR. VICINELLY: How long have you been employed by the Kocher Coal Company?

WITNESS KLINGER: A little over five-and-a-half years.

MR. VICINELLY: What is your occupation at the Kocher Coal Company?

WITNESS KLINGER: I am general mine foreman.

MR. VINCINELLY: What responsibilities do you have as general mine foreman under Pennsylvania law?

WITNESS KLINGER: Under Pennsylvania law, the operation, the safety of all personnel underground, and anything else that may arise.

MR. VICINELLY: What Pennsylvania certification do you hold, Sam?

WITNESS KLINGER: Well, I have a mining paper; I have an Assistant Mine Foreman's Certificate and I have a Foreman's Certificate.

MR. VICINELLY: How many assistant mine foremen were under your jurisdiction?

WITNESS KLINGER: Assistant mine foremen; they are

all foremen.

MR. VINCINELLY: How many foremen do you have under your jurisdiction?

WITNESS KLINGER: Four.

MR. VICINELLY: On March the 1st, the date of breakthrough, what areas -- well, who were the foremen and what areas were they assigned to?

WITNESS KLINGER: Palmer Merwine, South Dip Foreman; Roy Coleman, East North Dip Foreman; Earl Dunkle, West North Dip Foreman; Raymond Keefer, Second Shift Foreman.

MR. VICINELLY: Earl was -- I didn't get that.

WITNESS KLINGER: West North Dip. He would also relieve Palmer Merwine or Roy Coleman, who are the pre-shift examiners, one one day, and one the next.

Now, on that day of March the 1st, that you just mentioned, he would have relieved -- or would relieve Roy Coleman. It just happened that that was the way it was.

MR. VICINELLY: How often do you get underground?

WITNESS KLINGER: Every day.

MR. VICINELLY: How often do you get into the West Skidmore section?

WITNESS KLINGER: Oh, approximately twice : sometimes three times a week.

MR. VICINELLY: Do you recall when you were in the Skidmore section prior to the breakin?

WITNESS KLINGER: I was in the South Dip the day before the breakin.

MR. VICINELLY: Sam, when you were underground the day before the breakin, did you notice any unusual conditions?

WITNESS KLINGER: No, sir.

MR. VICINELLY: Did you travel all working places in the West Skidmore?

WITNESS KLINGER: No, not the day before; not that day.

When I said "South Dip," that also takes in the Top Split.

MR. VICINELLY: What working places did you visit that day?

WITNESS KLINGER: Monday of that week, which was the day before, I was in the Top Split and at the counter chute of the Skidmore. I did not travel the Skidmore Gangway section the day before.

MR. VICINELLY: Sam, when were you in the face of the gangway, the last that you recall?

WITNESS KLINGER: The Skidmore?

MR. VICINELLY: Yes.

WITNESS KLINGER: Oh, I don't exactly know if it was Thursday or Friday of the preceding week.

MR. VICINELLY: At the same time, were you up in the monkey?

WITNESS KLINGER: Yes. I was in the gangway and the monkey and on the robbing job. I did not visit Number 17 Chute at that time.

MR. VICINELLY: How long have you been a mine foreman for the Kocher Coal Company Mine, Porter Tunnel?

WITNESS KLINGER: I was hired as a mine foreman.

MR. VICINELLY: Are you saying five-and-a-half years?

WITNESS KLINGER: A little better.

MR. VICENILLY: Were you aware that there were abandoned workings adjacent or in the vicinity of the Skidmore section?

WITNESS KLINGER: Yes, sir.

MR. VICINELLY: How were you aware of that, Sam?

WITNESS KLINGER: By the locations of them on our map.

MR. VICINELLY: Prior to the break-in on March the 1st, how far ahead of that were you aware that there were abandoned workings in the area -- let me rephrase that. Let me try it again, Sam.

How long of a period, prior to starting working the West Skidmore, did you know that there were abandoned workings in the vicinity?

WITNESS KLINGER: I knew that there were abandoned workings in the vicinity of the west side when we were still working the east side, and that was years before we ever

started, or attempted to start, the west side.

That always has been on the South Dip Skidmore maps, the tops of them like shows over there.

(Witness Klinger indicating.)

MR. VICINELLY: With the information that is available on the map, could you determine the extent of the abandoned workings?

WITNESS KLINGER: No; only the locations of the tops of them and, of course, the top lift.

MR. VICINELLY: At what period did you instruct the foremen, your foremen, the four men, to start drilling test holes?

WITNESS KLINGER: At Number 8 Chute.

MR. VICINELLY: Who did you instruct at that time, Sam?

WITNESS KLINGER: All South Dip section Foremen who had anything to do with the South Dip.

Now, at that time, if I am not mistaken -- I can't be completely sure of this -- I do not believe that Dunkle was, at that time, a foreman yet; but I may be wrong on that. Palmer Merwine and Keefer, but I am not sure that Dunkle, at that time, was working for us as a foreman. He may have been working for us as a miner, but not as foreman. He will not. I may be wrong on that. I would have to check the records on that. But, if he was, he was also instructed.

MR. VICINELLY: What instructions did you give your foremen in regard to test holes?

WITNESS KLINGER: A drill pattern that was set up between the state mine inspector, my officials, and myself -- and where we would start that kind of -- you know what I mean, the amount of length of the hole -- the minimum length of the hole, I should say.

MR. VICINELLY: What was the drilling that was set up, Sam?

WITNESS KLINGER: A drilling pattern was set up for a three-way drill, straight -- in the breast straight up; one on each flank; in the heading, in the monkey heading, and in the gangway, straight in; one above and one below, at a minimum of 20 feet.

MR. VICINELLY: When you were underground, did you ever check to see if the holes were drilled?

WITNESS KLINGER: I have seen them drilled, and, on occasions when the boys were stuck, I would be in and I would help them remove the steel.

MR. VICINELLY: Did you observe bottom holes?

WITNESS KLINGER: Yes, sir.

MR. VICINELLY: Did you ever observe steel being stuck in a bottom hole?

WITNESS KLINGER: Yes, sir. That is where they would be stuck the most. They are the most problem to drill.

MR. VICINELLY: What was the nature of the coal in the West Skidmore at the face of the gangway the last time you were undergrond?

WITNESS KLINGER: On the dirty side; it has been in the whole gangway.

MR. VICINELLY: Will you explain what you mean by "on the dirty side"?

WITNESS KLINGER: Fine; not loose, but fine material. At the face of the gangway, the last time I was there, the vein was thicker than it had been for quite a long time. It was -- you know what I mean; but the quality of the coal wasn't too much different from anywhere else on the gangway.

MR. VICINELLY: I will come back to you, Sam.

MR. COOK: Mr. Klinger, are you, under the federal law, the health and safety officer for the company?

WITNESS KLINGER: Yes.

MR. COOK: When you have something that you want to pass on to the hourly employees, such as the drilling of test holes, how do you pass that information on to them?

WITNESS KLINGER: I pass it on through the section foremen; and, when I get into the section, I will also talk to the men themselves about it; that is, the men that are working in the immediate vicinity, not everybody in the whole mine; not like motormen and everything else.

MR. COOK: Those who had need to know?

WITNESS KLINGER: Right.

MR. COOK: When you get ready to start a section at the Porter Tunnel Mine, who makes that decision?

WITNESS KLINGER: When we get ready to start a section?

MR. COOK: For example, the West Skidmore section -- you have been here five-and-a-half years. The section was started about two or three years ago?

WITNESS KLINGER: Yes.

MR. COOK: Who made the decision to start that section?

WITNESS KLINGER: My supervisors and myself.

MR. COOK: What planning goes into your operation before a section is started?

WITNESS KLINGER: How we are going to work it, what kind of equipment we are going to use, and any safety precautions that may be needed on this particular section.

The drilling program was talked about, that we knew we were going to have to have; and, of course, the air connections; and, well, just everything that has to be done when you are running a section.

MR. COOK: Whether it is a track gangway or a conveyor gangway, who makes that decision?

WITNESS KLINGER: Leon Richter and I. The Vice-President and I made this one.

MR. COOK: You said, before you started the West Skidmore section, or probably ever since you had the map, you knew, on the west side, that there were abandoned workings?

WITNESS KLINGER: Yes, sir, we knew there was abandoned workings.

MR. COOK: Had it ever been discussed with you, maybe, the extent at which those workings might be present?

WITNESS KLINGER: Yes, sir.

MR. COOK: What kind of discussions did you have on that?

WITNESS KLINGER: We discussed every possibility of being deeper than us. We did not exactly know where it was or how deep it was. All we knew was what we -- the information that we could gather.

I talked to some people; Mr. Richter talked to some people, and we had the maps. Our engineer, he tried to gather up all the information that he could. We compiled this, and this is the way we set up our -- of course, we also talked to the inspectors, especially the state inspector, because he is a local man, and he knew, personally, some of the people that had these mines, which was Clarence Miller.

MR. COOK: Now, this discussion with other people and trying to determine, as best you could, the boundaries of these old workings, that took place prior to starting the West Skidmore section?

WITNESS KLINGER: Some of it, yes. While we were getting the counter chute ready and things like that, we may have been in the process of starting it; but this was all discussed long before we ever even started the drilling program.

MR. COOK: Realizing that this information really is, to an extent, hearsay, or you are trying to get it as best as you can, was it in any way delineated on a map of any kind, the information that you received?

WITNESS KLINGER: No. The only thing that we had on maps was, as I said, the tops of the three mines, where they were located on the surface, which is impossible to find now anyway, as far as that is concerned; but we had an idea of where they were on the surface; how deep and to what extent the gangways were driven, we did not know.

This is why our drilling program was started where we figured it would be a safe place.

MR. COOK: So, prior to starting the West Skidmore section, you had some idea of where the tops of some of these old sump holes were in relationship to your mine, and that was about the extent of your knowledge of the old workings?

WITNESS KLINGER: The top and the first lift.

MR. COOK: Down through the first lift?

WITNESS KLINGER: What was on the maps; what the Reading Company, or whoever surveyed it, had on it; that was it.

That is all the surveying there was, and if they were accurate I don't know; but we figured that. This is what we wanted.

MR. COOK: Did anyone at that time mention to you what might be the maximum depth of the old Bush slope?

WITNESS KLINGER: I don't really know exactly when that was talked about; but Clarence Miller personally went and talked to Mr. Weaver, who lives here in town someplace -- I am not too acquainted with Tower City -- and he, in turn, would give me the information that he got. We would discuss it.

I also talked to Marlin Bush, who works for us, many a time. We also discussed the map, he and I. If I am not mistaken, a few times Clarence Miller was around when this happened

I don't really know if any federal men were around when I talked to Marlin Bush; but, I can vaguely -- it seems to me like, at one time or another, there may have been a federal man around that heard was discussing what the things was that was out there, locations and depths.

Marlin Bush always told me that he -- this was the impression, that the slope went down approximately 800 feet. He also insisted that the straight slope was the one, not the one marked across the pitch. Even though we did not -- as much as I hate to say this, we did not put all our stock in what Mr. Bush told us. We did do extensive drilling where we figured this across the pitch slope would intercept us.

MR. COOK: On your work maps that you worked with, did you ever project the old Bush slope down 800 feet to see where it would be in relationship to the gangway that you were developing, the West Skidmore gangway?

WITNESS KLINGER: Yes.

MR. COOK: Being an anthracite miner all your life -- I take it you have always worked in the anthracite fields?

WITNESS KLINGER: Yes. I have never been in the bituminous.

MR. COOK: If someone told you a slope was 800 feet deep, would you suspect that, near the bottom of that slope, the gangways had been turned off?

WITNESS KLINGER: Definitely.

MR. COOK: Generally speaking, how far would you develop a slope beyond the last gangway? I am sure that you compare that, a maximum distance.

WITNESS KLINGER: Well, I had a mine of my own years ago. Fortunately, we had a drift. We didn't have to pump any water. But I have worked in these so-called bootleg holes. I don't go along with calling them "bootleg" holes, because they worked harder than they do in the mines. Now, they call them mines.

I worked in them, and it has been common practice that you keep your sump gangways, if you have sump gangways,

as close to your main gangway as possible, because you don't want to have an extra burden on your pump, on your suction. In other words, a pump will only suck water so far. You can push it. A pump is made to push water. So, I would say 20 feet, if there were sump gangways driven.

Now, from what I gather here, on this Bush slope, they didn't have any sump gangways. They just had the slope below them.

I can understand that they would have that a little bit deeper; but, if you drive sump gangways, you leave about 20 foot of pillar, and then you drive your sump down there, below where you are going to be having your main gangway.

MR. COOK: Even in the absence of water, just for ventilation purposes, it probably would not have been much beyond the last level turned off; is that correct?

WITNESS KLINGER: Not for the sump; it should not be too far below the last level, no.

MR. COOK: Generally speaking, in the older mines or so-called smaller mines, such maybe as Bush Mine, about what centers did they turn their levels off of, generally?

WITNESS KLINGER: Well, that varied with the thickness of the vein, lots of times, and how hard the man was up for money, or how bad he needed coal; but, the way I see the Bush Mine, in order for them people at that time to get down as deep as they were, where they certainly should not

have been called "bootleggers," I could see where they would probably drive 250-foot lifts.

But another operation, if you would look at the side of it, the next mine next to it, they, of course, put their lifts a little bit closer.

MR. COOK: That was the old Miller Mine?

WITNESS KLINGER: Yes. The old Miller Mine, on the map, shows two lifts; but when we got finished draining the Miller Mine, we found four gangways, and federal and state mine inspectors seen them. But, on the map, they only showed two gangways. This is on the original that we have.

MR.COOK: So, just making estimates, if a slope was reported to be 800 feet deep, you would think maybe, at the most, the levels would turn off 250-foot centers, or you would have to have three or four levels turned off at that slope. Would that be a reasonable assumption for an anthracite mine?

WITNESS KLINGER: Right, 200 foot, four lifts; approximately 800 feet.

MR. COOK: I appreciate what you said for a so-called small mine. This was a pretty deep slope. It was a pretty large operation, then?

WITNESS KLINGER: Yes, it was.

MR. COOK: But, I would image that a lot of their coal was still handled by hand, in handcars, from the gangways back to the slope?

WITNESS KLINGER: Sure; they still are, today.

MR. COOK: Under those conditions, about how far would they drive, normally speaking, a gangway?

WITNESS KLINGER: Well, you would drive a gangway through the amount of property that you had on your lease, if you had a lease.

If you did not have a lease in writing, years ago, you would have mines all over the mountain; and the men, mine owners or operators, would set up their own limitations: well, you've got 300 feet and I've got 300 feet, and so on.

If I would go over the amount that I was supposed to have, into the next, there would be a hell of a fight, not legally, but hand-to-hand combat.

MR. COOK: So, really, the determining length of the gangways was probably the established property line between the people working in that area?

WITNESS KLINGER: That is right. That is what I would say was the deal when this was up, according to what I heard from the Bush people.

MR. COOK: I could understand where some of the workers in the West Skidmore section would not remember exactly when they started drilling test holes; but, I think, as you have heard today, we have heard from Number 4 Breast, 5 Breast, and on up.

I believe you said you started Number 8 Breast drilling.

WITNESS KLINGER: Yes, between 7 and 8 Breasts, we started the drilling pattern.

MR. COOK: What made you feel confident that you did not need drill test holes until you got to Number 8 Breast?

WITNESS KLINGER: Again, we relied on what we got on the old maps and what we could find out from other people. We were fairly sure, not completely -- this is why we drilled on the gangway and the monkey -- that we could go that far. Of course, the State Mine Inspector agreed.

We set up a starting distance on drilling with him and my superiors and myself.

MR. COOK: We have heard, on several occasions, as you have in the last two days, that at the Number 8 Chute or Breast, there was some conversation, or there was something that happened there in connection with the Weaver Mine, whether a place shot through into the old works or drilled through.

Had you started your drilling patterns before that incident occurred?

WITNESS KLINGER: Yes, sir, they were drilling before the Weaver Mine was first holed. As I heard -- maybe this is not the proper thing to say. As Mr. Reinoehl said, we were drilling; but he also said that we holed the Weaver Mine at the fifth miner heading, which is incorrect. It was the seventh miner heading, which you will find on the maps.

The federal and state inspectors know this.

MR. COOK: In other words, off of the Number 8 Chute, you holed into the old works at the seventh miner heading?

WITNESS KLINGER: Right.

MR. COOK: Was there considerable water on your first contact with the old Weaver Mine?

WITNESS KLINGER: Yes, we had quite a bit of water. If I can remember right, it ran -- the first hole -- the first hole ran.

We drilled the water on the second shift. The exact time, I don't know offhand.

The following day, on the second shift, we started drilling down below it more holes. The head was going off of it, and our job, our intentions were to get the water out of the place, not let it run completely empty.

When the hole slowed down, we knew that the hole was taking air, which of the holes were taking air. There was air going through the old Weaver Mine.

Us, being on the blowing system, the air would pass in through the drill holes. When they started taking air, started to gurgle, then we would drop down and drill more holes lower.

This is how we found out that it was a breast.

After the next hole, when that water would go dry in the upper hole, the first hole, we would drive it through.

MR. COOK: So, you just kept dropping down along

Number 8 Chute?

WITNESS KLINGER: Along Number 8 Breast, until we found the bottom, which was the gangway. The face -- as a matter of fact, we found the face of that gangway.

MR. COOK: Then, after that, you holed through into the old Weaver Mine?

WITNESS KLINGER: We holed through into the Weaver Mine after the second hole was drilled, and that hole took control of the water that the first went dry. Then we holed into it.

There was no cut blowed into the water. It was drilled, and I have proof of that from federal and state mine inspectors.

The water was being drained through a drill hole; it was not blown through.

If -- I don't wish to give any names right now. If you want them, why -- I will just stay off the inspectors.

MR. COOK: What you are saying is that there was no accidental blowing through to the old Weaver Mine?

WITNESS KLINGER: No, sir. If we would have accidently blown into that mine, there was enough water there, that, why, you would have known about it. I am sure that we would have had people hurt, if we had blown into it, because there was enough lift of water there where we holed it.

I don't remember offhand who much water was in that

mine; but I would say that the first hole drained approximately I will guess, 50 feet of head.

MR. COOK: How was that, again, about 50 feet of head?

WITNESS KLINGER: Right, because, when we went in with the mine inspectors -- again, the mine inspectors were with me. We went up into this old breast, and we could see the water line, or where the water was in the first place.

Then, of course, we came down and drilled it until we got to the bottom gangway of the Weaver Mine, which was the main gangway.

Later on, we encountered their sump gangway, which is shown on the maps -- on our map, up above Number 15, which we had it surveyed into the bottom of the slope. As we dropped back, with every breast, we would draw the remaining water to that breast.

The Weaver slope mine gangway had the opposite pitch of our gangway. They were driving east; we were driving west.

So, as we came in, we would always have a small body of water, every breast, and it would be drilled. Then, at that time, when we holed through, we could go in the preceding breast and take a look, see how much water was there, and exactly how far it was. In other words, we then had a mine on our hands that we could see what we were doing.

After we made the initial breakthrough into the Weaver Mine, it was simple, from then on. We did not have to worry about where it was; we knew where it was.

The only thing that we did not know was where that end of the slope was, which we found out. As we got closer to the slope, we kept driving into the old gangway and looking down, and we did, again, look down the slope, before we holed the slope, from the gangway into the sump. Then we drilled the sump gangway and then the slope.

MR. COOK: What you are saying is: this one chute, you tapped into it; you drilled the water off; you cut into the old Weaver gangway; then, you could look down and see what you had, for some distance, or you could see the falls, or whatever.

Then, before you cut into the next chute, you, of course, drilled through to what water there was, and then you would hole on through into the old gangway.

Now, you say that Number 15 Gangway is where you surveyed the entire into the bottom?

WITNESS KLINGER: Number 15 Breast, yes, right into the bottom of the slope. It is on our map.

MR. COOK: You may have explained this well enough; but, if you don't mind, we will go over it one more time.

In setting up your drilling pattern, for example, in the gangway, what was the pattern of drilling that you

passed on to your foremen?

WITNESS KLINGER: One ahead, one up the pitch on 45 degrees, and one down the pitch on 45 degrees.

MR. COOK: Now, as you look at a clean face in the gangway, you would drill straight ahead for 20, 26 feet?

WITNESS KLINGER: Right, a minimum of 20 feet.

MR. COOK: A minimum of 20 feet; and you were normally pulling about six feet of coal?

WITNESS KLINGER: That was the maximum, usually less, because our timber has been set on five-foot centers.

MR. COOK: How far back from the face would you start your flank holes?

WITNESS KLINGER: Right in the corner.

MR. COOK: Right in the corner, where the face intersects the flank?

WITNESS KLINGER: Maybe a little bit down on the corner, so that you could have a bearing to start, because the timber is always set as close to the face as possible.

If there was room for another set -- our timber was set on a maximum of five-foot centers; and my orders were, and my section foremen's orders were: if there were three feet, make just enough room for the five foot. This is why, sometimes, we run into a four-foot cut. We only drilled enough to make room for timber.

There was no such thing as seeing how much coal we

could throw. Our men were not on contract; they were on company time.

We would make enough room for timber. This is why the drill hole pattern that your people found along the high rib, some holes were further apart than others.

MR. COOK: Does that mean that it matched in with our timber sets?

WITNESS KLINGER: Right.

MR. COOK: Now, we have also heard in the last day or two that from somewhere, apparently, inby maybe 15 or 16, maybe the coal had a tendency to want to run in the gangway and in the monkey way.

To your knowledge, is that correct?

WITNESS KLINGER: Yes, there we had wild coal at times.

MR. COOK: Now, as you were advancing the gangway, I understand, you were just about having to forepole every cut for a good distance; is that correct?

WITNESS KLINGER: No, I would not say that we would have to forepole; but, when the miners gave testimony and said that they were forepoling, that didn't mean that they had to forepole to keep the pillar from dropping.

You put up a roof over your head while you are cleaning the pile, so that nothing can fall on the workmen. You also call this forepoling. You call it forepoling; but

don't get confused when they said that they forepoled.

The law requires you to keep temporary timber ahead of your permanent timber. This is also called forepoling. It does not have to mean, because they said "forepoling," that we were having a pillar run and we were holding coal. It works on the same principle; but, when you have a pillar problem, you use much heavier poles than you do when you are just putting a temporary roof over your head.

MR. COOK: So, the "forepoling" in the gangway in the last few weeks was not really forepoling to keep the coal from running; it was just your normal roof support?

WITNESS KLINGER: Normal roof support is exactly right. Now, I am not saying that there was not a time that we forepoled to hold the coal; but it was, as you said -- your question was "all the time." I say, no, not all the time to hold the pillar; times, but not all the time.

MR. COOK: Would you say that coal had a tendency to run more in the latter few months, in the gangway, that it had in the previous months?

WITNESS KLINGER: Where we would start our chutes -- now, if the gangway was in far enough where we would start our chutes, we always had a corner problem. When your coal is fine, you have this problem, and soft. There, we would have a little bit of trouble at mostly all of the chutes, where the vein was any thickness at all.

Now, in the West Skidmore Gangway, there were some chutes that were started in practically solid rock, which some of you may have seen. There, of course, you have no trouble.

It is according to the thickness of the vein; and, of course, if you -- and we did have pliable coal in the Skidmore Gangway, in the monkey heading also.

MR. COOK: As you were timbering up in the gangway, generally speaking, how close to the face was your last timber set?

WITNESS KLINGER: Against it, if it was possible; no more than a foot away. We would only -- like I said before, we would drill enough room for timber. We would not over-drill. These were their orders. If they ever did, why, they were doing 100 percent wrong; and I am sure they did not, because when you overdrill, you are asking for trouble. My lead miners were not asking for trouble.

MR. COOK: When you say "overdrill," are you thinking now about for the coal holes, "overdrilling"?

WITNESS KLINGER: Yes, I am talking about the cut holes, not the long test holes.

MR. COOK: In the sequence of events in the working face, when do you drill the test holes?

WITNESS KLINGER: Long holes for testing for water?

MR. COOK: For testing for water, yes.

WITNESS KLINGER: That is the first thing that you do.

MR. COOK: That is after you have timbered up?

WITNESS KLINGER: After you have timbered, you drill your test holes first. The reason for that, you don't want to drill your cut holes and run a test hole and accidently drill into one of your cut holes and ruin it. You may have to do it over, because, like, you know, there are some times that you don't get the first hole in.

As a matter of fact, I know, definitely know, that sometimes they spend hours and sometimes as much as a whole shift drilling test holes, that they have trouble where the vein was thin or where she was rolling.

MR. COOK: Generally speaking, would you find that condition more in one area than in the other, in one flank area more than in the other , say the left more than the right or the bottom more than the top?

WITNESS KLINGER: No, not really. When the vein is thin, like, you know, that in some places it was only a foot and less.

Some places, where you have six-foot of vein, it is not -- you don't have as much problem of running into the bottom rock or the top rock as when you only have this much.

(Witness Klinger indicating.)

You really have to get her lined up pretty good to get in there 20, 26 feet, especially drilling on an angle. It is not too bad drilling straight with the vein; but, when you are drilling up pitch or down pitch, you have two angles to consider there.

You can run into the top -- actually more into the top, into the bottom. You also have to consider your angle that you want your hole to go in the first place.

MR. COOK: Normally, you turn those on about a 45-degree angle?

WITNESS KLINGER: Approximately. Now, the men did not have pitch gauges or rules of that kind. They set them as close to 45. Some may have been steeper; some may have been a few degrees less; but they were right around the 45-degre angle, which the mine inspectors seen and knew and checked when they came in.

MR. COOK: When you were timbering close to the faces you indicated that, in the West Skidmore Gangway, where it is difficult to drill holes in a lot of cases, I assume that you were drilling them down to where you were having to auger the coal back out, did you ever suspect that, due to the physical hardness of doing that work and all, that some of those holes were being skipped from time to time?

WITNESS KLINGER: They were not supposed to be skipped. Their orders were to drill. It didn't make no

difference how long it took them.

Like I said before, there was no time set on how long it would take them; they were allowed to have the drill. How much coal they had to produce or how much yardage you had to make, there was never -- there is no man can ever say that I gave them kind of orders. If he does, he is lying. We don't operate like that at the Porter Tunnel.

MR. COOK: Did anyone at any time ever report to you that the down holes were not being drilled?

WITNESS KLINGER: No, sir.

MR. COOK: Does the section foreman, when he makes his own shift and pre-shift examination, does he enter into the book if the test holes were drilled?

WITNESS KLINGER: No. It is not required by the law that he enter that into the book, not as far as I know.

MR. COOK: So there is no record kept of it, or he was not asked to keep a record of it.

WITNESS KLINGER: Not a record in writing, no.

MR. COOK: As the health and safety officer under the Federal Coal Mine Health and Safety Act, were you responsible for the training of the hourly employees?

WITNESS KLINGER: I, and we also have an instructor, Mike Semanchick. There has been a lot of people sitting up here, where I am sitting now, trying to think of that man's name.

Michael Semanchick was hired, and was trained by the federal people in Pittsburgh, as an instructor. He is the man that most of them could not figure out what his name was who gave them the training.

This happened -- before we had him: Mr. Slusher of your department, and -- now I am having name trouble -- Matchick, Steve Matchick, from the state, were the instructors for first aid, self rescuers, safety light, methanometer and anything else that was requested or in the law, both by state and federal.

MR. COOK: So, at the present time, the Porter Tunnel Mine has in its employ a person who does do training?

WITNESS KLINGER: Yes, sir.

MR. COOK: How often do you have an evacuation drill at your mine?

WITNESS KLINGER: Well, we show our mine -- our men, our new personnel, where the second outlets are. The second outlets are all clearly marked with signs. We do show our new personnel where the second outlets are.

If a man is transferred from one section to the other, where he does not know -- if does not make any difference if he is an old employee or not, if he has never been in this section, he will be shown where they are. But, the new men, as they are employed, after they are there, you know what I mean, they are shown where the second outlets are.

I don't really know what the federal law is of

showing a man; but, once you show a man where the second outlet is, you don't have to come back two weeks later and show him again. There are some things that a miner does not forget.

Now, once we show them, we have the signs. We show the new men, and we, when, as I said, bring in new men from one section to another -- they may be working there four or five years; it does not mean that they know the whole mine at Porter Tunnel, so, they are shown where the second outlet is.

MR. COOK: At the Porter Tunnel Mine, I believe that you employed around 145 people, probably 120 underground; is that correct?

WITNESS KLINGER: Right now, yes. I think it is around 114 underground right now; but we were higher than that.

MR. COOK: Do you have much of a turnover in labor at the Porter Tunnel Mine?

WITNESS KLINGER: Do we have much of a turnover in men; is that what you -- I did not quite understand that question.

MR. COOK: Yes, right, in men.

WITNESS KLINGER: Not really too much. We have men there who were working that Porter Tunnel longer than me. Oh, we have some that don't stay, just like everybody.

MR. COOK: Would you know, offhand, maybe what percentage of your working force underground would be under

25 years of age?

WITNESS KLINGER: Under 25 years of age, I don't know exactly; but I believe I am safe in saying one-third.

MR. COOK: Most of the men that you hire today would they be young, inexperienced miners?

WITNESS KLINGER: Those are the only ones that you can hire.

MR. COOK: What kind of a training program do you have for these people?

WITNESS KLINGER: Well, the instructor, outside, tells them the fundamentals. To learn to be a miner, you have to go in and do it. You cannot learn to be a coal miner out of a book. It does not make any difference who prints the book.

You can be told the fundamentals, what to expect; you can give them the training that is required by both laws; but you have got to take them in.

When we train a new man, we put him with an old, experienced man.

Usually, normally, in most places, especially on the South Dip, flat pitch -- now this may sound a little odd, but, on the flat pitch there are usually three-man crews. We stick a new man, an inexperienced man, in with two experienced men. This, we found, is the best way to train miners.

If they want to learn, they learn quickly. If they

don't want to learn, you can put them in with 25, and they are not going to learn. Some people just want -- all they want to do is collect a paycheck.

MR. COOK: Would have areas of the mine where you would not send a young, inexperienced miner; do you have certain areas that you prefer to train them in, or do you just fill up the crews as you need them?

WITNESS KLINGER: Oh, no. We have special places to train them in. I would not send an inexperienced man up the straight pitch to drive a full breast. He would not last a day. That is one thing that we would absolutely not do. We train them on the slow pitch.

MR. COOK: Would the West Skidmore Gangway be an area where you would send inexperienced miners to work with experienced miners?

WITNESS KLINGER: Yes. I would also send them on hard-pitch areas; but I would keep them on the gangway and the monkey heading area. I would not send them up onto the hard pitch any distance, no higher than the monkey, until they learn.

MR. COOK: That is all.

MR. VICINELLY: Sam, you stated that at 15 Chute you cut into a sump, and, after you cut into it, you ran a survey, I believe you said.

Do you understand my question?

WITNESS KLINGER: 15 Chute?

MR. VICINELLY: Yes.

Who ordered that survey?

WITNESS KLINGER: Leon Richter.

MR. VICINELLY: Why was the survey ordered once you cut into it?

WITNESS KLINGER: We wanted to see if the survey -- if the mine was on the same base as our mine. This was why it was surveyed. We did not have to survey it to find out where it was. We could go up and look at it. We wanted to check if they were on the same base, on the same bottom, as we were, on the same base of the survey, and to try to tie the mine into our workings.

MR. VICINELLY: Is there anyplace else where you encountered water from the abandoned workings after you cut into them that you ran surveys also?

WITNESS KLINGER: No. The only place --

MR. VICINELLY: Was 15?

WITNESS KLINGER: -- was 15. That the was the only bottom of any slope that we had so far drained.

MR. VICINELLY: You stated that you had discussed with State Inspector Clarence Miller a drilling plan. Would you know when that took place, and what was Clarence Miller's decision on the number of test holes?

WITNESS KLINGER: I can't tell you the exact day;

but it was long before, long before we were completely ready to work that section, as far as advancing it was concerned. We may have been repairing the counter chute. After the counter chute was driven, we went back and we drilled Number 1 and Number 2 Breasts, which were -- actually, Number 1 Breast in that section is still on the east side of the tunnel, right alongside the second outlet.

Number 2 Breast is directly over the tunnel.

Now, we knew that there was no old bootlet holes up in our second outlet, so there we did not do any test drilling. We knew didn't have to.

While these things were going on is when we set up everything else with Clarence Miller, my superiors and myself.

MR. VICINELLY: Can you recall what breast you were at when the decision was made to start drilling at Number 8?

WITNESS KLINGER: No. We were still out driving 1 and 2. It was months before -- months before we actually put the drill plan into operation, that we had that drill plan set up.

MR. VICINELLY: When talking to the state inspector, who was the local man that you discussed the possible intent of the gangway in the abandoned mines?

WITNESS KLINGER: Who was the person that I talked

to?

MR. VICINELLY: Yes.

WITNESS KLINGER: I didn't talk to him; Clarence Miller talked to him. The man I talked to was Marlin Bush. I did not talk to Mr. Weaver personally. I don't know the man. I would not know him if he walked in here. Clarence Miller contacted Mr. Weaver. He knew the man.

MR. SHAFFER: Could we have the question read again, please? I am not sure that I fully comprehend it.

MR. VICINELLY: When talking to state inspectors, who was the local man; did you discuss possible intent of gangways of abandoned mines? Why not is this information so easy to come by?

MR. COOK: I would think the question is: who did the state inspector talk to about the old workings?

WITNESS KLINGER: Who did? Mr. Weaver, if you are talking about a mine owner.

MR. COOK: So, you are saying that Mr. Miller normally talked to Mr. Weaver about the old workings?

WITNESS KLINGER: Normally, he made it a point to go and see the man. He is the one that went because he knew the man. He is a local man.

MR. VICINELLY: We have a question here, Sam: where is the state required plan for drilling ahead?

WITNESS KLINGER: Where is it?

MR. VICINELLY: Yes.

WITNESS KLINGER: We never had one in writing, just verbal.

MR. VICINELLY: When you opened your coal mine up -- were you employed when they opened Kocker Coal Mine, Porter Tunnel?

WITNESS KLINGER: Do you mean when the Kocher Coal Company reopened it?

MR. VICINELLY: Yes.

WITNESS KLINGER: No.

MR. VICINELLY: Were you aware of any letters in 1968 from the Secretary of Mines at that time granting you approval to open the Kocker Mine?

WITNESS KLINGER: No. I was not anywhere around the place at that time. I did not start until in the '70's.

MR. VICINELLY: Whoever the person was that sent this up, we have a letter on opening and closing plans, and I will make it available to them.

The attorney will make it a part of the exhibit, later on in the testimony.

Was the state-required drill plan up, down, flank holes, ever talked or discussed with the federal inspectors?

WITNESS KLINGER: Yes.

MR. VICINELLY: I think you ought to tell us who these state inspectors were and who the federal inspectors were.

WITNESS KLINGER: Well, we only had one state inspector; that is Clarence Miller.

MR. VICINELLY: And who was the federal inspector that this was discussed with?

WITNESS KLINGER: All federal inspectors knew of the drill plans, that inspected that section after the drill plan was put into effect, because I traveled with them, and they seen the drill holes.

MR. VICINELLY: All right. We will take a break.

Jim, do you have any questions?

MR. SHOBER: Sam, when was the last day that you were in the West Skidmore section of the mine prior to March the 1st, the day of the disaster?

WITNESS KLINGER: Either Thursday or Friday of the preceding week. We do not work Saturday.

MR. SHOBER: Did you travel into the West Skidmore Gangway?

WITNESS KLINGER: Yes, sir.

MR. SHOBER: Did you talk to the cross-shift bosses daily, that is, underground or on the surface?

WITNESS KLINGER: The cross-shift bosses?

MR. SHOBER: Right.

WITNESS KLINGER: I talked to my section foremen every day, 10, 15, 20 times a day, with the communications system.

MR. SHOBER: Now, Sam, why wasn't Number 16 Chute in the West Skidmore Gangway advanced beyond the monkey heading.

WITNESS KLINGER: It was too dangerous. We had very, very pliable coal there and a very thick vein. It was one of them places where the top practically inverted itself. The bottom stayed on its normal pitch. The top come up like this --

(Witness Klinger indicating.)

-- and, all at once, she threw herself back and there was a big pile of coal there, and all very pliable.

When we went through there with the monkey heading we always -- which you heard testimony on this: we always drive our monkey heading several cuts up past before the breast is started. This is the least.

There are lots of times that we have a monkey heading as much as 75 to 100 feet ahead before the breast is actually started above the monkey.

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The gangway is driven to the chutes, and a cut or so past, and the chute is driven up; and the monkey is driven past the chute, where it will come through, and then we connect it.

We have our air connection and our second outlet established; the breasts can be started at any time.

When we started -- when we tried to start Number 16, I was called in; after they opened it, I was called in.

Whenever there was a problem, my section foremen's orders were to get in contact with me immediately, which they always did.

I went in and I looked it over, and I made the decision that we would abandon it, go to 17, and connect in the way we were connecting it when this thing happened.

MR. SHOBER: I understood, earlier in the testimony, that one of your men did say that you always kept your monkey heading in advance, and you drilled through with your chutes to your monkey heading.

WITNESS KLINGER: Absolutely. Our monkey heading would always be driven past where the chute would come up, and there would be a bridge set installed, so that, when you came up with the chute, you didn't blow the legs out and the timber fall out.

In order to put a bridge set across, you have got to get the monkey up past.

MR. SHOBER: Now, Sam, what is the depth that the test drill holes are drilled in advance of the face, at all times, in the West Skidmore Gangway; or did it vary in the depth?

WITNESS KLINGER: A minimum of 20 feet. If the miners felt that they had a good hole going, if they -- say, for instance, they ran 18 feet, and they put a six-foot steel on to finish the 18 feet; they, most of the time, would

run it all the way in.

MR. SHOBER: All right, Sam. Whenever you did meet with some of our people and, as you stated earlier, the federal people, what was the drilling plan that you agreed on at that time; do you remember?

WITNESS KLINGER: What was the drilling plan that we agreed on with the state?

MR. SHOBER: Yes.

WITNESS KLINGER: A depth of no less than 20 feet: straight in; two flank holes, one high, one low; up the pitch, one east, one west, 45 degrees, one straight up.

MR. SHOBER: All right. Thank you, Sam. That is all.

MR. VICINELLY: Jack Tisdale?

MR. TISDALE: Sam, I would like to ask you one question about the intersection of the water at Number 8 Breast.

When you intersected the water and idled the mine, did you notify the federal inspectors that you had encountered water?

WITNESS KLINGER: The federal inspectors were in while the water was still running out of the first drill hole.

MR. TISDALE: Did you notify them?

WITNESS KLINGER: Possibly. I am not going to

say "yes" or "no" to that question.

It is possible that the inspectors were on a tour of inspection at the time, because when they inspect our mine, they are there for no less than a week, sometimes two.

I do know that a federal inspector was there with the state inspector while the water was still running from that first drill hole.

MR. TISDALE: Sam, I would like to put our attention back to the face of the gangway, and I would like to bring our Exhibit Number 3 up to the board here.

As I understand our Exhibit Number 3, it is a photocopy of the mine map, enlarged. Some of the wording may be a little fuzzy because of the enlargement.

Now, I understand that you had conversations with Mr. Bush that works at the --

WITNESS KLINGER: Marlin Bush.

MR. TISDALE: Marlin Bush, that works at the Porter Tunnel Mine. So, you know something about the fact that they did operate the mine there.

WITNESS KLINGER: Yes.

MR. TISDALE: And, indicated on the map is a dotted line that shows a slope that goes down from the Bush Mine to a certain depth. Do you know what that depth is, as recorded on the map?

WITNESS KLINGER: You are now talking about the

one that goes straight down or the one that is going across the pitch?

MR. TISDALE: I am talking about the one that is going straight down, as far as the map is concerned.

Lenny, that one there, the one that goes straight down.

(Mr. Rogers indicating.)

WITNESS KLINGER: That probably has an 800-foot mark on it. I can't see it from here.

MR. TISDALE: But is that what the map at the mine office has?

WITNESS KLINGER: Right. It was not originally on ; we plotted that on, because this was the information that we had, so that we would have an idea of where --

MR. TISDALE: Where did you get that information from?

WITNESS KLINGER: I got it from Clarence Miller and Marlin Bush. Where they got it, you would be better off asking them. I have an idea; but let them answer their own questions.

MR. TISDALE: So, you were aware that the old slope went approximately 800 feet?

WITNESS KLINGER: We were aware that it could possibly be 800 feet. How deep it was, we did not definitely know.

I always used, and my company officials always

used, the extreme. If somebody said it was 200 feet, we always figured that it could possibly be a little bit deeper.

MR. TISDALE: In the discussion that you had previously, earlier, here, it seems possible, also, that there would have been gangways driven off of that slope?

WITNESS KLINGER: Yes, I think there would be. I don't see why a man would drive a slope and not drive a gangway, unless something before he got it done.

MR. TISDALE: So, you had a possible mined area then ahead of and maybe even below the Skidmore Gangway?

(Witness Klinger nodding.)

MR. PHARES: For the record, Mr. Klinger is shaking his head.

WITNESS KLINGER: Yes. I am sorry, I forget that there are more people listening to this than the people that are looking at me here.

MR. TISDALE: Did you discuss any plans -- well, let me ask you another question, Sam: how long a hole can you drill with the equipment that you have; how long a hole can you drill in the coal, straight ahead?

WITNESS KLINGER: Straight ahead in the gangway?

MR. TISDALE: Straight ahead in the gangway.

WITNESS KLINGER: Well, I never really tried to find out how far I can drill straight ahead; but I can tell you what we did do. I have drilled 103 feet straight up -- I

have not, my men have.

MR. TISDALE: Did you consider -- knowing that there possibly was a worked out area larger than what was indicated by that slope on the map, did you consider drilling long holes to determine where that area would be?

WITNESS KLINGER: We drilled long holes in the area of the across-the-pitch slope, like I said before, where that would have interesected our workings, which was around Number 17. There we drilled for one solid shift, extensively.

Now, if I would have had any idea that I was as close to that slope as we were, I definitely would have ordered an extensive drilling program.

We were drilling our holes according to the law, and more than was asked of the law.

MR. TISDALE: What I am talking about is additional --

WITNESS KLINGER: I did not drill longer than the law required, because I did not know I was that close to it.

MR. TISDALE: Well, the face of the gangway is, according to what we found out later, less than 100 feet from the slope.

WITNESS KLINGER: Well, we drilled a long hole in the face of the gangway 71 feet, and made an opening. There is no way that anyone, you or I, can say it is the slope.

MR. TISDALE: So, the reason you did not plan an extensive drilling program from the face of the gangway

was your interpretation of the information that you had, that you were not that close to it?

WITNESS KLINGER: We were drilling -- our drilling program was carried out according to the way that it was set up, and, at that time, we were with the impression that that was enough.

MR. TISDALE: Did you expect, or did you believe that there was a possibility of intersecting the old slope, eventually, with the gangway?

WITNESS KLINGER: Would you repeat that question?

MR. TISDALE: Did you feel there was a possiblity that, eventually, the gangway may intersect that old slope?

WITNESS KLINGER: This was the reason for why we were drilling the long holes.

MR. TISDALE: What kind of a head would you think you might possibly have at that time?

WITNESS KLINGER: I haven't got the slightest idea. I don't know how full the mine was; there is no way of me telling how much water was in there.

MR. TISDALE: Were there any discussions or considerations as to other means of dewatering that old mine prior to mining in that area?

WITNESS KLINGER: No, not with me.

MR. TISDALE: For example, surface drill holes --

WITNESS KLINGER: No, not with me; no. Not that I know of.

MR. TISDALE: The coal that caused difficulties to hold your timber in the gangway in the monkey area, you say that, at times, it tended to run?

WITNESS KLINGER: Yes, we had wild coal.

MR. TISDALE: Sam, you know, we can recognize the stresses underground caused by worked out areas; were the stresses on that coal unusual, from what you would normally expect in driving solid work?

WITNESS KLINGER: No. It has been that way, on and off, all the way in the gangway. It was not any different from any other times. There was times when the coal was harder. Then, other times -- you have that all the time in the anthracites.

MR. TISDALE: So, there was not any indication that there was pressure from worked out areas?

WITNESS KLINGER: No. No, sir.

MR. TISDALE: As I understand, you personally observed drilling the down holes in the low side rib?

WITNESS KLINGER: Yes.

MR. TISDALE: Do you remember -- while you were observing them drill the down holes in the low side rib, Sam, do you remember who the miner was that was drilling the hole?

WITNESS KLINGER: Well, it was not just one. I have seen it several times, when I was accompanied with inspectors.

MR. TISDALE: Can you mentioned who was there when you observed drilling the down hole in the low side rib?

WITNESS KLINGER: Clarence Miller was one, if you are talking about an inspector.

MR. TISDALE: I am talking about inspectors or miners.

WITNESS KLINGER: Clarence Miller, my section foreman, usually, when I would be called in; or when I would go in, if I would meet the section foreman, he would accompany me. Especially if there was something out of the ordinary that I was called in for, he definitely would accompany me.

MR. TISDALE: Do you remember an individual miner?

WITNESS KLINGER: Practically every lead miner that ever worked in the gangway, if you are talking just about the gangway, now, or the monkey.

MR. TISDALE: The gangway or the monkey.

WITNESS KLINGER: Practically every lead man that I had I have seen, at one time or another. I can't say exact when or where, in what area; but this covered a long period of time.

MR. TISDALE: Did you ever see Mr. Madenford?

WITNESS KLINGER: Yes. Yes.

MR. TISDALE: Sam, do you have an annual training and retraining plan approved by MESA?

WITNESS KLINGER: Annual training and retraining plan, if it is needed, we have got it. I wouldn't want to say "yes" or "no" to that; but we do -- if it is needed, we've got it, I am sure.

MR. TISDALE: When was the last time you conducted training for the roof and rib control; do you remember that?

WITNESS KLINGER: Every time that I go into the mine and I talk to the miners, we talk about roof and rib control. This is the way I train my men, on the job.

MR. TISDALE: When do you show them and discuss with them a copy of the approved roof control plan?

WITNESS KLINGER: Why, I don't show them the plan. I tell them what it is.

MR. TISDALE: And, do you have an approved training in evacuation plan for the mine?

WITNESS KLINGER: Do you mean do we have a plan set up on how the men should leave the mine in case of disaster; is that what you are trying to ask me?

I do not quite understand that.

MR. TISDALE: Well, the regulations require that you have approved a plan for training the miners in how they would evacuate the mine in an emergency.

WITNESS KLINGER: I don't know of a plan that is

approved; but the men were all shown their second outlets.

MR. SHAFFER: Since these are plans that are required to be fil with MESA, I think that your records would properly reflect that, and you could properly put this in the record, rather than asking this witness.

MR. TISDALE: I might add that there is a difference between having a plan approved and on record and executing that plan on an annual basis, as required.

My questions were to determine whether the plan was executed on an annual basis, as required.

I would like to mention to counsel that there is a difference in that.

WITNESS KLINGER: There is -- to the best of my ability of answering that question, I think that we have such a plan.

I can't answer -- I don't want to quoted.

MR. TISDALE: Were all your miners trained in that training in evacuation plan for 1976?

WITNESS KLINGER: All the miners were trained --

MR. TISDALE: All the underground miners.

WITNESS KLINGER: Were all the miners trained in the evacuation plan; in other words, were all the miners trained in how to get out of the mine if they had to, or anything like that? I don't quite understand this question.

MR. TISDALE: Right. That is what I am asking.

WITNESS KLINGER: All the miners knew how to get out of the mine in case of a problem.

MR. TISDALE: If you recall, part of that plan -- it is part of those requirements that a copy of the map of the area where the men are working be posted at their working section which shows their escapeways?

WITNESS KLINGER: Yes.

MR. TISDALE: Did you have a copy of the map posted on the working sections, showing the escape routes?

WITNESS KLINGER: There is a copy of the maps of the escape route shown at each section right now, yes, sir; they are posted -- of the second outlets.

MR. TISDALE: Which federal inspectors did you discuss the drilling plan with, wherein you were supposed to be drilling down over the low side rib?

WITNESS KLINGER: Well, all the federal inspectors, all the inspectors who came into the mine. I never got a notice on not having my drill holes according to the law, so I figure they all knew about the drill holes.

If I did not have my drill holes drilled according to the law, I definitely would have gotten a violation.

MR. TISDALE: Do you have methane detectors at the mine?

WITNESS KLINGER: Yes, sir.

MR. TISDALE: Are the miners trained in the use of the methane detectors?

WITNESS KLINGER: Yes, the miners are trained in the use of the methane detectors, but, each miner does not have a methane detector. He carries a flame safety light. The supervisors will make the pre-shift and the on-shifts. They carry methane detectors and flame safety lights.

MR. TISDALE: Sam, I think you mentioned this indirectly; but I would like to ask you for sure: who is your supervisor?

WITNESS KLINGER: Leon Richter.

MR. TISDALE: Could you go over, one more time, for me, Sam, the reasons for drilling the holes in the low side rib and gangway, the Skidmore Gangway?

WITNESS KLINGER: The reason for it?

MR. TISDALE: Yes.

WITNESS KLINGER: In case that -- this is the way the plan was set up by the state mine inspector.

We were with the impression that, possibly, the mine was deeper, and a gangway was below us.

MR. TISDALE: Sam, Ronald Adley stated that down holes were drilled in the slant that he was driving off of 17 Brest; do you know why those down holes were being drilled?

WITNESS KLINGER: Yes, two reasons: number one, and most important, we never broke the drilling pattern. The drilling pattern was three holes: one straight in the face, one up and one down on the pitch, or one east and one west at 45 degrees. We never broke a drilling pattern,

whether the breast was going straight up or lying on a slant.

The other reason: there is no way to say that that slope could not be coming down between two breasts. We did not know whether it was the across-the-pitch slope or the straight slope. This is why we drilled holes all over, up the pitch and everywhere else.

MR. TISDALE: Sam, you were present when we talked this morning about a meeting of the miners and the officials of the company in your office. I think, included in that meeting was the company attorney. Could you give us some information about that meeting?

WITNESS KLINGER: Yes, sir.

That meeting was conducted so the men would know that they have a right to counsel, either their own or the company's, which they would not have known, unless we told them, until you people told them here.

MR. TISDALE: At that time, did you discuss the drilling pattern with the miners?

WITHESS KLINGER: No. They all knew the pattern. We did not need to discuss the drilling pattern with them; the lead miners, definitely. The motormen and them people may not have known it; there was no reason for us to discuss the drilling pattern with them.

MR. TISDALE: Give me just a minute, Sam, to check my notes here, so that I don't have to come back to you.

(Pause.)

MR. COOK: We will take just a short break.

T1S2

(Recess.)

MR. COOK: All right. We will resume the hearing now.

MR. TISDALE: I have no more questions of Mr. Klinger.

MR. VICINELLY: Jim, do you have any questions?

MR. SHOBER: No questions.

MR. VICINELLY: Dennis?

MR. STRAIN: Sam, just as a follow-up of the last question, you were present when Mr. Zanella testified that he had been spoken to at that meeting about what he was going to say, at that meeting.

WITNESS KLINGER: I was present -- I am sorry.

MR. STRAIN: Go ahead.

WITNESS KLINGER: I was present when he said that; but I do not think that Mr. Zanella meant that he was talked to about a drill hole pattern. I don't think so. He was not talked to about a drill hole pattern.

MR. STRAIN: Well, was there any discussion at that meeting about drilling holes; did the word come up?

WITNESS KLINGER: No. Like I told Mr. Tisdale, we told them about their rights -- the attorney told them about their rights to an attorney, either of their own choice

or they could use the company attorneys.

MR. STRAIN: Was there any mention of the requirements of the law to drill flank holes or holes up the heading?

WITNESS KLINGER: No; I don't remember; not that I know of. I didn't hear anything.

MR. STRAIN: Did you hear any discussion with any persons about what they might testify at this hearing?

WITNESS KLINGER: No.

MR. STRAIN: When you were talking to Marlin Bush about the extent of the abandoned workings, what did he tell you?

WITNESS KLINGER: Would you repeat that, please? I didn't quite hear it.

MR. STRAIN: Well, I will withdraw that question and go to back further.

Prior to working the West Skidmore, I believe you testified that you and your supervisor contacted several persons about the extent of abandoned workings; is that correct?

WITNESS KLINGER: No, that is not what they said. I said we spoke to Clarence Miller, the state mine inspector, and I spoke to Marlin Bush. He is the only outside man, other than Clarence Miller, that I talked to about the abandoned mines in any way, shape or form.

MR. STRAIN: Do you know who Mr. Richter spoke to?

WITNESS KLINGER: I don't know if Mr. Richter spoke

to anyone other than them two; if he did, I don't know about it.

MR. STRAIN: All right. What did Marlin Bush tell you?

WITNESS KLINGER: Marlin Bush told me that there was a possibility the slope was down 800 feet, and that is exactly what he told you here when he testified. That is exactly what he told me.

MR. STRAIN: Did he tell you the source of his information?

WITNESS KLINGER: What is that?

MR. STRAIN: Did he tell you the source of his information?

WITNESS KLINGER: He told me that he worked in and around that mine, and his dad owned the mine.

MR. STRAIN: Did you ask him if anyone who had worked at that mine was still alive?

WITNESS KLINGER: He told me that there was no one that worked on the bottom lifts still alive.

I did not know who worked up above.

MR. STRAIN: When you decided to open up the West Skidmore section, who were the supervisors that you were consulting with at that time?

WITNESS KLINGER: Who was my supervisor?

MR. STRAIN: Who were the persons you spoke about

that decided to open up the West Skidmore section?

WITNESS KLINGER: Leon Richter.

MR. STRAIN: Anyone else?

WITNESS KLINGER: No. He is the only supervisor that I ever had on the Kocher Coal Company job.

MR. STRAIN: I think you stated you observed all of your lead men drilling lower flank holes underground; is that correct?

WITNESS KLINGER: At one time or other, I suppose so; yes. I could not say -- name them, when or where or at what time.

MR. STRAIN: And Clarence Miller was with you at one time?

WITNESS KLINGER: He was with me at least one time, possibly more.

MR. STRAIN: Do you remember where?

WITNESS KLINGER: Not exactly where or what chute, if that is what your question is.

MR. STRAIN: Was it in the gangway?

WITNESS KLINGER: It was in the gangway.

MR. STRAIN: It was in the gangway?

WITNESS KLINGER: Right.

MR. STRAIN: How about the federal inspectors; where were they?

WITNESS KLINGER: I don't know if there was ever a

federal inspector with me while they were drilling holes; there may have been; there may not have been. I cannot say whether they seen any being drilled. I do not remember them being along at the time -- while they were being drilled, that is. I know they seen them after they were drilled.

MR. STRAIN: Are you certain that you saw Mr. Madenford drill a lower flank hole?

WITNESS KLINGER: What is that?

MR. STRAIN: Are you certain that you saw Mr. Madenford drill a lower flank hole?

WITNESS KLINGER: I definitely saw him and Philip Sabatino, when he and Philip Sabatino were on the same shift.

MR. STRAIN: When was that?

WITNESS KLINGER: Oh, that was a year ago, possibly.

MR. STRAIN: Approximately what chute?

WITNESS KLINGER: Oh, I would say someplace in -- by Number 8.

MR. STRAIN: Would that be in the monkey or miner heading or what?

WITNESS KLINGER: In the gangway.

MR. STRAIN: Did you give your section foremen any instructions about checking for drill holes?

WITNESS KLINGER: The section foremen checked for drill holes, definitely.

MR. STRAIN: Under your instructions?

WITNESS KLINGER: What?

MR. STRAIN: Well, first of all, did you instruct them to do that?

WITNESS KLINGER: Yes, sir.

MR. STRAIN: What did you tell them to do?

WITNESS KLINGER: To make sure the holes were drilled

MR. STRAIN: How were they to do that?

WITNESS KLINGER: By looking, checking with the men and occasionally measuring it.

MR. STRAIN: How were they to measure?

WITNESS KLINGER: There is only one way to measure a drill hole: put the steels back in and see how many steels go into it.

MR. STRAIN: When you ran a survey from the Number 15 Chute, was any effort made to tie that survey in to the surface survey of the Reading Anthracite Company?

WITNESS KLINGER: I suppose it was automatically tied into it, because the rest of our mine is; but you would have to ask the engineer that question. I am not an engineer.

MR. STRAIN: But, did the slope coming down from the Weaver Mine correspond with the location of that slope on the surface?

WITNESS KLINGER: I don't know where the location of the slope is on the surface. You cannot visually see it. On the map, it does.

MR. STRAIN: Did this survey at all change your projection as to where the slopes from the Bush Mine might intersect your gangway?

WITNESS KLINGER: That survey was not intended to -- not directly intended for that purpose. The survey was intended to find out whether everything was the same on their slope and our slope, our workings; but, it would also give us -- if that slope was accurately positioned on the map, we had reason to believe that the Bush and Miller slopes would also be accurately on the map, on what we had of it.

MR. STRAIN: Was the Weaver slope accurately on the map?

WITNESS KLINGER: I do not know. You will have to ask the engineer.

MR. STRAIN: Did you talk to the engineer about that?

WITNESS KLINGER: No, not really; no.

MR. STRAIN: Did you ever consider drilling longer holes than 20 feet?

WITNESS KLINGER: No. We thought the drilling program was sufficient.

MR. STRAIN: Is that the same distance that you had used in other sections of the Porter Tunnel Mine?

WITNESS KLINGER: Do you mean the North Dip, when you say "other sections"?

MR. STRAIN: I mean any section of the Porter Tunnel Mine other than the West Skidmore section.

WITNESS KLINGER: In the North Dip we know where the abandoned working is because it is charted on maps, so we have no problems of figuring how far we have to drill or where we have to start drilling.

MR. STRAIN: I'll put the question this way: was there any other section of the Porter Tunnel Mine where you used a similar drilling pattern?

WITNESS KLINGER: No. We don't have any abandoned workings in any other mine that we don't have mapped.

MR. STRAIN: What did you do when you thought you knew where the workings were -- I will withdraw that.

What did you do when you were approaching mapped workings?

WITNESS KLINGER: Well, we go so close, then we drill it and tap the water. The rest of the workings where we draw water is a gangway that is driven by the Reading Company above us.

MR. STRAIN: How long would those holes be?

WITNESS KLINGER: Well, we would drill 30, 40, sometimes possibly 50 feet. It is just according to the size of the vein. There is also a program set up for that section on drilling and how it is to be done.

MR. STRAIN: Did you ever, at any time, prior to

going into the West Skidmore section, consider not mining the West Skidmore section because of these abandoned workings?

WITNESS KLINGER: No.

MR. STRAIN: Is it normal to mine close to abandoned workings when you don't know where the workings are?

WITNESS KLINGER: Yes.

MR. STRAIN: Have you ever done it before yourself?

WITNESS KLINGER: Yes.

MR. STRAIN: Frequently?

WITNESS KLINGER: I have done it ever since I was a mine foreman.

MR. STRAIN: How do you drill test holes, then?

WITNESS KLINGER: The same way we drill them here.

MR. STRAIN: Did you ever discuss with any of your employees that the Bush slope might go below your gangway?

WITNESS KLINGER: All employees knew about the abondoned workings. It was always a guess exactly how deep or where it was, until we located it with drill holes.

MR. STRAIN: Did you tell your section foremen that the Bush slope might go down 800 feet?

WITNESS KLINGER: He knew of it.

MR. STRAIN: Did you tell them to tell your lead miners that?

WITNESS KLINGER: They were told.

MR. STRAIN: How do you know they were told?

WITNESS KLINGER: The section foremen were ordered to -- I told them myself.

MR. STRAIN: You told the section foremen?

WITNESS KLINGER: That is right, the section foremen and some of the lead miners, most of them. They all knew that there was abandoned mines in the area; exactly where, no one knew. This was why we were drilling.

MR. STRAIN: Those are all the questions that I have at this time.

MR. PHARES: Mr. Klinger, Marlin Bush told us this morning that -- I believe I am stating his testimony correctly -- he was aware that the bottom level was driven approximately 100 feet towards the present Porter Tunnel Mine; is that your recollection of his testimony this morning?

WITNESS KLINGER: He told me there was a possibility of that. He told me what information he -- what he thought was exact. He did not know exactly. He never told me exactly how far it was driven, because he did not know.

MR. PHARES: He told you he thought it might be driven 100 feet?

WITNESS KLINGER: He never gave me any measurements on distances on gangways, or even what he thought on distances on gangways. The only measurements that he ever gave me that he thought were on the slope.

MR. PHARES: Was he any less sure about the fact -- the possibility that there were gangways driven off the bottom level as he was about the slope coming down approximately 800 feet?

WITNESS KLINGER: Is that question "was he sure that there was a gangway?"

MR. PHARES: Did he have approximately the same amount of certainty in all of the information about the gangway?

WITNESS KLINGER: I don't know what he is sure of.

MR. PHARES: When he talked to you, did he express himself with the same possibilities?

What I am really getting at is that you saw fit to dot in the slope that came down 800 feet, but that was based on only a possibility; but, yet, the gangways that were driven off this slope, that he thought might be there or was a possibility of being there, were not dotted in; is that correct?

WITNESS KLINGER: He always told me that he was never on the bottom lift. The only reason he knew about, had an idea, that the slope was 800 feet is because he was told the slope depth. He always told me that he never was on the bottom lift.

MR. PHARES: Am I correct in understanding that you did not actually have conversations -- you, yourself, did not h

conversations with the federal inspectors regarding this drilling plan; is that correct?

WITNESS KLINGER: They knew about the drill holes. I did not see any reason why I should tell them the plan.

MR. PHARES: All right. Prior to the inundation, did you know that Mr. Earl Bush used to work in that old Bush Mine?

WITNESS KLINGER: I did not know that Earl Bush worked. The only person that I knew-- no. I will answer that with just a plain "no." I did not know that Earl Bush worked in that mine.

MR. PHARES: Mr. Klinger, we have a question from the audience: did the Marlin Bush information satisfy you, or did he refer you to anyone other than himself?

WITNESS KLINGER: No. He never told me about anyone else that worked in the mine, except, of course, his dad.

MR. PHARES: I have no further questions; but I think for the record, we should note that Mr. Shaffer has been joined at the witness table by Mr. Savit, as counsel to Mr. Klinger.

MR. COOK: Mr. Klinger, I am sure, as we are, you have, too, looked at the mine on how to prevent a similar occurrence.

At this time, where do you think the water that flooded the Porter Tunnel Mine on March the 1st, 1977, came from?

WITNESS KLINGER: The only thing I know for sure, it came from an old abandoned coal mine; where, I am not sure.

MR. COOK: You didn't say whether it came from the face of the gangway, the monkey way, the bottom of the gangway?

WITNESS KLINGER: There is no way that I can tell whether it came from any one of those areas that you say.

MR. COOK: Would you have thought it came down Number 15 Chute?

WITNESS KLINGER: Would I have thought?

MR. COOK: Yes.

WITNESS KLINGER: Before we got into the mine, I thought there was a possibility.

MR. COOK: Now, after you had gotten into the mine and you had looked at it, what do you think about Number 15 Chute?

WITNESS KLINGER: Well, the water did not come down 15 Chute.

Actually, when we went into the mine we were looking for people, not where the water came from, so it took awhile until we got our bearings together and figured it did not come from Number 15 Chute.

MR. COOK: I guess, really, I am not trying to underline motives. I am just wondering, in your mining experience, if you did have any opinions at this time of where

you think the water might have come through and at what point it came into the Porter Tunnel Mine and the West Skidmore section.

WITNESS KLINGER: The water came in the bottom of the West Skidmore Gangway out-by and around the face area. That is evident. That is all I know.

MR. COOK: So, you have no question in your mind that it came through the bottom of the gangway,the West Skidmore Gangway, near the face?

WITNESS KLINGER: Yes.

MR. COOK: Of course, hindsight is always better; but, looking back on it now and talking about you and your company, the company you work for always looks at things for the maximum as related to safety.

You would have assumed the slope was down 800 feet or further; you know the approximate distance, or you had reason to think it was an approximate distance from the slope of the Bush Mine to the slope of the Weaver Mine. It was not unreasonable to think that levels would have been driven toward the Weaver Mine. It was not unreasonable to think of what centers or levels might have been on down the 300-foot slope. Do you think now that it would have aided you or your foremen if you had that printed as estimates,dotted on, what your engineers might have delineated as being where the possible old works are? Would that have helped you at all?

WITNESS KLINGER: We had no idea what old workings

were there. We did not know whether there was four gangways, three gangways or anything else. There was no way we would know how many gangways or how far the gangways were driven in the upper lifts or if the pillars were taken out. We did not know that.

MR. COOK: I appreciate what you said: you would not have known exactly; but, now, looking back, you started talking to a lot of people and, still again, they might be wrong. At least there was a good bit of knowledge known about that the mine was worked for several years, a good bit of knowledge about how deep the slopes might have been a good bit of knowledge on how many levels could have been turned off.

Did you ever feel moved to get with your engineer, knowing that the Bushes lived in the area, to go talk to them and to see what you could, in fact, find out?

WITNESS KLINGER: I did not know of any other person to talk to about the Bush Mine except the man I talked to, Marlin Bush.

I did not know that Earl Bush had anything to do with it, and I did not know any of the other Bushes that were present at this hearing today, until -- I never seen them before.

MR. COOK: You had never seen them before?

WITNESS KLINGER: No, only Earl. I knew Earl, but not Paul and whatever the other two men's names were.

MR. COOK: To your knowledge, when was the Bush

slope put on the prints that you received of the mine showing 800 foot as an approximate depth; when did that first appear on the maps that you received at your company?

WITNESS KLINGER: That has been on for, I don't know exactly; probably a year.

MR. COOK: Thinking again of what you said earlier about thinking of maximums, at least 800 feet or more, did it ever enter your mind to drill a hole 100 feet in advance just to see if there was a slope? In other words, you can project it down. You can project a point at which it might possibly cross the path of the West Skidmore Gangway, and when it got within a reasonable distance, to drill a longer hole than you were. Did you ever consider doing this?

WITNESS KLINGER: We were with the impression -- I should say, I was with the impression that our drilling program was sufficient to handle any job; it always was and until -- and as far as I am concerned, it still is. Until federal and state comes up with a different program, I will figure that the program that they are setting with is efficient. So, I could not see no reason why -- if the program is set up for 20 feet, I can't see any reason why go and drill 100 feet.

MR. COOK: If you had an idential situation today on another section of the Porter Tunnel Mine, would you change anything that you had done in the past at all?

WITNESS KLINGER: I would do exactly, and order my section foremen and my men to do exactly what we had done here.

MR. COOK: In looking for ways to prevent a recurrence of an accident like this, would you recommend that the state or federal laws be amended in any manner?

WITNESS KLINGER: The problem, the way I understand -- I think the problem should be looked into; but it is not my -- who am I to say that the federal and state should change their laws. But, I do believe that the matter should be looked into by both the federal and the state.

MR. COOK: I must say, Mr. Klinger, when we promulgate rules and regulations, we really solicit any suggestions that anyone might have, and we ask for their comments.

I would think that anybody's opinion would certainly be appreciated, and I was wondering if you would have one on any matter?

WITNESS KLINGER: Well, I don't know what to say should be done. Evidently, from what happened in our mine -- I know that the drilling program was carried out and it failed; so, evidently, there should be something done to improve it.

Evidently, from what we seen on March 1st, the drilling program evidently is not what it should be; but I am not in a position to say what the drilling program should be. I agree that something should be done.

MR. COOK: I realize that it is easier said than done; but, under the Federal Coal Mining Health and Safety Act, every mine operator is to investigate accidents in their mine with the thought in mind of "how do you prevent a similar occurrence." Have you started such an investigation, in your mine?

WITNESS KLINGER: An investigation in my mine of how to make sure that this does not happen again, I was with the impression that that has been going on for the last couple of months.

MR. COOK: Yes, sir. Have you reached any conclusions within your company?

WITNESS KLINGER: Not really. I have not. I did not think that was up to me, in the first place. I figured I would be told when you people get to them conclusions.

MR. COOK: You are the responsible person for health and safety under the Federal Coal Mine Health and Safety Act; you are designated that person.

WITNESS KLINGER: Yes, I am.

MR. COOK: Are you aware of Part 80 of the Federal Code of Regulation?

WITNESS KLINGER: I don't know; maybe if you tell me what it reads, I --

MR. COOK: It has to do with the reporting of accidents, the investigation of accidents, the determining of

the causes of accidents; are you aware of that provision?

WITNESS KLINGER: I know that when you have an accident you report it to the federal and state.

MR. COOK: Did you know that you also have a responsibility to investigate this accident?

WITNESS KLINGER: Yes. I do investigate all accidents.

MR. COOK: On this one, has your company initiated an investigation of their own into this accident?

WITNESS KLINGER: Absolutely. There is an accident form made out for every person that is injured on the job, and I am on the investigating team, and I sign my name to them.

MR. COOK: So that, when you were questioned here today, have you reached any conclusions on your investigations?

WITNESS KLINGER: Not really.

If I understand that question right, do you mean did I figure out why this happened; is that what you are asking me?

MR. COOK: Yes. In other words, you have had a serious accident in the mine in which you are the mine foreman, and you are also the responsible person for the health and safety of the miners, as designated by the company. I am wondering to what extent you, personally, might have investigated this accident.

WITNESS KLINGER: Well, as far as I am concerned, as far as I know, you people are making an investigation, and we are not working in that area, only to -- what we are doing is repairing the counter chute; but we are not in the section until somebody comes up with what should be done to prevent -- I, myself, have not made any decision on what should be done on preventing a similar accident.

MR. COOK: When you develop a drilling pattern for tapping the old works, this pattern that we are talking about, does the company's engineer enter into that with you?

WITNESS KLINGER: The company engineer knows about that, absolutely.

MR. COOK: He knows about that. Do you inform him about it or do you solicit or does he enter into the actual compilation of it?

WITNESS KLINGER: Normally, when there is something like this goes on, he is present when it set up. We use his maps to perform the session.

MR. COOK: I have a question here from the audience. I will read it just as it is.

"Don't you have surveyors to test what is in the surrounding area; that is, engineers?"

WITNESS KLINGER: We do now. Whatever work is being developed now; but that mine had no maps.

I also don't think that I quite understand the questio

would you repeat it, please?

MR. COOK: I think what the question meant was that you do have engineers who are doing mapping work for you or for your company. Do you rely upon them to tell you as much as they can about the area that you are mining?

WITNESS KLINGER: The only information that I had on the old mine was what was posted on the mine at the surface, and what I got from Clarence Miller and Marlin Bush. There was no one else that my engineer could have gotten any information from.

MR. COOK: Even after what you heard here today?

WITNESS KLINGER: What?

MR.COOK: Even after what you have heard here today, there was no one else that you could talk to?

WITNESS KLINGER: Not that I knew of.

MR. COOK: Did you discuss it with the company engineers?

WITNESS KLINGER: Did I ever discuss --

MR. COOK: The old Bush Mine and who might know more about it?

WITNESS KLINGER: We have talked about these abandoned mines all of the time and tried to get all of the information that we could.

MR. COOK: This question had to do with when the 300-foot mark was put on the mine map. I believe you said --

what was your answer to that one? I know I asked you that question.

WITNESS KLINGER: I said it could have possibly been a year ago. I don't know exactly when.

MR. COOK: But you would think possibly not more than a year?

WITNESS KLINGER: I don't believe so. It could be. I am only guessing. I don't know exactly when.

MR. COOK: Mr. Phares would like to follow up for jus a moment.

MR. PHARES: I think the further thrust of the question is: since this 800-foot slope has been on your mining map for approximately one year, was it shown to federal inspectors when they came to the mine for a complete inspection?

WITNESS KLINGER: The mine map is available to all inspectors, and all federal inspectors do check the mine maps.

MR. PHARES: Did you discuss that 800-foot slope wit the federal inspectors?

WITNESS KLINGER: I did not discuss it with them. I didn't see any reason to tell them. They look at the maps. They see what they want to see.

MR. COOK: Mr. Klinger, just a few questions, one or two more probably.

Inby 13 Chute, in the gangway of the West Skidmore section, did you ever personally check any of the flank holes

in the low rib side?

WITNESS KLINGER: Inby 13 Chute?

MR. COOK: Yes.

WITNESS KLINGER: I cannot tell you exactly where I checked them.

MR. COOK: Could you ever recall having checked the flank holes in the down rib side of the West Skidmore Gangway at any time?

WITNESS KLINGER: Oh, yes.

MR. COOK: You have personally done that?

WITNESS KLINGER: I have personally seen them; I have seen them drilled; I have -- yes.

MR. COOK: Other than seeing them drilled, have you ever checked them in any manner?

WITNESS KLINGER: After I seen them drilled?

MR. COOK: Other than seeing them drilled, have you checked them in any manner?

WITNESS KLINGER: I have seen them checked; I have asked the men; the section foreman, I have asked the section foremen whether they were checked. I know the drill holes were there.

MR. COOK: Say that you are back 12 feet from the face, did you check a hole at that late date?

WITNESS KLINGER: No, not after the cut is fired, you can't check the drill hole in the bottom of a gangway.

MR. COOK: Could you even find the holes?

WITNESS KLINGER: It is virtually impossible. It is possible that you could find it after the first cut; it is possible, but I doubt it, especially in the kind of coal that we've got. If it was bone-hard coal, like we have in some places, you could; but not in that dirty coal, especially after taking up rock and blowing a rock cut right in on top of everything. That just disturbs the whole vein for three, four, a couple of feet, in that area in the bottom of the gangway.

MR. VICINELLY: Do you have any questions?

MR. SHOBER: No.

MR. VICINELLY: Sam, when were you notified of the break-in of water on March 1st?

WITNESS KLINGER: A few minutes after 12:00.

MR. VICINELLY: When you were notified of the break-in, will you give us a brief description of what you did and what took place when you were first notified?

WITNESS KLINGER: Do you want me to give it to you from the time I was notified or why I was at this designated area?

MR. VICINELLY: You can give why you were at this designated area, yes. Start from there, anywhere you wish.

WITNESS KLINGER: Well, the first of March was the first Tuesday of the month. I was at Hegins Mining Breaker

for, of all things, a mine rescue school. I am on -- for those that don't know this, I am a member of the mine rescue team that is being -- thatthe state and federal has. The state has an instructor and we also have a federal instructor at times; and I am a member of this mine rescue team.

This was the day that we had our monthly class or meeting of the mine rescue team, which starts at 12:00 noon. I was up at Hegins Mining and received a telephone call from Chief Clerk Messaros in our office at the Porter Tunnel that there was something wrong. He did not know. He did not tell me what. He did not know what. He said there was something wrong in the mine, and that he was in contact with the section foreman.

I told our instructor, who is Steve Matchick that I was going back to the mine, to proceed with the school, the day's session without me, and I came back to the mine.

When I came back to the mine, the water was still not coming out of the mouth of the tunnel, not in excess. There was water coming out; but the normal flow of water.

When I went into the office, why,Bruce Smith was there. You know who Bruce Smith is.

He told me what he could, between gasping. He was all excited.

I put on my light and went over to the mouth of the tunnel. By then the water was coming out of the tunnel.

I realized that it was fruitless for me to try to wade in through the water. Probably I would not get in. So, I got a pickup, and I went up to the top of the mountain and come down the Skidmore second outlet.

When I came down Number 3 Chute -- I did not come all the way down the second outlet of the chute. I come down Number 3, and I went down to the gangway, and the water was still flowing out through the gangway.

By the way, there was another man with me; Willard Clark was with me, one of the outside men. When I left Porter for the alternate tunnel, he went with me.

Then I went back -- he stayed in the monkey. I crawled down to the gangway to see if I could see what was going on.

There was water flowing too deep in the gangway, so I went back and went in the monkey. While I was going in the monkey, someplace; I should say -- I don't know exactly -- around Number 5 or 6 Breast, I met Walter Carl and Leroy Manhart coming out.

I asked them if there was anybody else. They told me that Ernest Morgan was in the second miner heading of Number 13 Chute, that they were coming out to get help.

Well, I said, you have got help. We will go back.

So, we went back up and we got Ernest moving. We brought him on through.

Quite a bit of time elapsed, because it was a pretty tough time getting him out, because these chutes, the timber was all torn out.

As a matter of fact, I took Ernie across a couple of chutes on a rope.

So, we got him to the surface and sent him to the hospital. There was an ambulance on the surface.

Then I went back down to the office and I discussed these things just a little bit with the mine inspectors, that were then already on the scene, and my supervisor, Leon Richter.

I turned right around and went back up, went down the second outlet. This time I was accompanied by mine inspectors.

We went back down and went in the same way we came out with Ernie. We went in all the way to 15. At this time, at Number 15 Chute, where we later drove in to get Adley out, we rapped with a hammer to find out if there was anybody around the area that could return the rap. We did not hear anything, so we went back..

As I said, there was federal mine inspectors with me that time, the second time. The first time when I was in, there was still no inspectors on the scene. It was impossible to have an inspector there at that time. How soon they got there, I don't know; but when I got back down, they were there.

MR. VICINELLY: Sam, when you were underground, could you tell us the elevation -- or how high the water was, and what miner headings or monkey --

WITNESS KLINGER: When I was underground -- do you mean when I first went in?

MR. VICINELLY: Yes.

WITNESS KLINGER: Well, when I first went in, I wasn't looking for how high the water was. I was told how high it was by the fellows that I met going in; but I was not looking for how high the water was up the pitch. I was looking for people.

MR. VICINELLY: What was the highest elevation of the water in the breast, Sam, that you know of?

WITNESS KLINGER: The highest elevation of the water was 21 feet higher than the second miner heading.

MR. VICINELLY: Do you have any more questions?

(No response.)

MR. VICINELLY: I have one here.

Sam, earlier today, we heard testimony that at times it was impossible to drill bottom holes through the hard rock; is this so? If so, what was done in this case to obtain a bottom bore hole of the required depth?

WITNESS KLINGER: The vein was never pinched completely; there was always a seam of coal. You would not drill your test hole in rock. You drill it in whatever coal

you had. The vein was never completely pinched on the South Dip's West Skidmore Conveyor Gangway, never completely. It was thin, but never completely pinched.

MR. VICINELLY: Well, would it have been possible to drill a bottom hole?

WITNESS KLINGER: Yes.

MR. VICINELLY: What I would like to do now, and I would like to go on record on it, I do want the people here to know that Bernie O'Brien, who is a legislator and a chairman of the Mines and Energy Committee in Pennsylvania, has appointed a committee to review both the bituminous law and the anthracite law on drilling to see if it is adequate.

The committee is made up of seven people.

We will -- I am not satisfied with the law, and I assure you that there will be changes made in it, as far as state law.

That is all that I have, Sam. Thank you.

MR. COOK: Thank you, Mr. Klinger.

(Witness excused.)

MR. COOK: We will adjourn the hearing until 9:00 tomorrow, at which time we will continue with the witnesses of the company.

(Whereupon, at 7:05 p.m., the hearing was adjourned, to be reconvened at 9:00 a.m., Thursday, June 9, 1977, in Tower City, Pennsylvania.)

C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

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